U.S. DEPARTMENT OF COMMERCE
National Technical Information Service

PB-290 276

Air Pollution Regulations in State Implementation Plans: Nebraska

Abcor Inc, Wilmington, MA Walden Div

Prepared for

Environmental Protection Agency, Research Triangle Park, NC

Aug 78

PB 290276

United States
Environmental Protection
Agency

Office of Air Quality
Planning and Standards
Research Triangle Park NC 27711

EPA-450/3-78-077
August 1978

Air

EPA

Air Pollution Regulations in State Implementation Plans:
Nebraska

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NATIONAL TECHNICAL
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U. S. DEPARTMENT OF COMMERCE
SPRINGFIELD, VA. 22161

TECHNICAL REPORT DATA

(Please read Instructions on the reverse before completing)

1. REPORT NO. EPA-450/3-78- 077	2.	3. RECIPIENT'S ACCESSION NO. PB 290 276
4. TITLE AND SUBTITLE Air Pollution Regulations in State Implementation Plans: Nebraska		5. REPORT DATE August 1978
		6. PERFORMING ORGANIZATION CODE
7. AUTHOR(S)		8. PERFORMING ORGANIZATION REPORT NO.
9. PERFORMING ORGANIZATION NAME AND ADDRESS Walden Division of Abcor, Inc. Wilmington, Mass.		10. PROGRAM ELEMENT NO.
		11. CONTRACT/GRANT NO. 68-02-2890
12. SPONSORING AGENCY NAME AND ADDRESS Control Programs Development Division Office of Air Quality Planning and Standards Office of Air, Noise, and Radiation Research Triangle Park, NC 27711		13. TYPE OF REPORT AND PERIOD COVERED
		14. SPONSORING AGENCY CODE

15. SUPPLEMENTARY NOTES

EPA Project Officer: Bob Schell, Control Programs Development Division

16. ABSTRACT

This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

17. KEY WORDS AND DOCUMENT ANALYSIS

a. DESCRIPTORS	b. IDENTIFIERS/OPEN ENDED TERMS	c. COSATI Field/Group
Air pollution Federal Regulations Pollution State Implementation Plans		

18. DISTRIBUTION STATEMENT RELEASE UNLIMITED	19. SECURITY CLASS *(This Report)* Unclassified	
	20. SECURITY CLASS *(This page)* Unclassified	22. PRICE A07 PC/MF A01

EPA Form 2220-1 (9-73)

EPA-450/3-78-077

Air Pollution Regulations in State Implementation Plans:

Nebraska

by

Walden Division of Abcor, Inc.
Wilmington, Massachusetts

Contract No. 68-02-2890

EPA Project Officer: Bob Schell

Prepared for

U.S. ENVIRONMENTAL PROTECTION AGENCY
Office of Air, Noise, and Radiation
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

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Publication No. EPA-450/3-78-077

INTRODUCTION

This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act Amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

There have been recent changes in the Federal enforceability of parking management regulations and indirect source regulations. The October, 1977, appropriation bill for EPA prohibited Federal enforcement of parking management regulations in the absence of specific Federal authorizing legislation. Federally promulgated parking management regulations have, therefore, been suspended indefinitely. Pursuant to the 1977 Clean Air Act Amendments, indirect source regulations may not be required for the approval of a given SIP. Consequently, any State adopted indirect source regulations may be suspended or revoked; State adopted indirect source regulations contained in an applicable SIP are Federally enforceable. More importantly, EPA may only promulgate indirect source review regulations which are specific to Federally funded, operated, or owned facilities or projects. Therefore, the Federally promulgated indirect source regulations appearing in this document are not enforceable by EPA except as they relate to Federal facilities.

Since State air quality regulations vary widely in their organization, content, and language, a standardized subject index is utilized in this document. Index listings consist of both contaminant and activity oriented categories to facilitate usage. For example, for regulations which apply to copper smelters, one might look under sulfur compounds (50.2), particulate matter process weight (50.1.1), or copper smelters (51.15). Federal regulations pertaining to a given State immediately follow the approved State and local regulations.

Additionally, a summary sheet of the information included in each comprehensive document is presented prior to the regulatory text to allow one to quickly assess the contents of the document. Specifically, the summary sheets contain the date of submittal to EPA of each revision to the SIP and the date of the Federal Register in which the revision was either approved or disapproved by EPA. Finally, a brief description or reference of the regulation which was submitted is also included.

This document is not intended to provide a tool for determining the enforceability of any given regulation. As stated above, it is intended to provide a comprehensive compilation of those regulations which are incorporated directly or by reference into Title 40, Part 52, of the Code of Federal Regulations. Consequently, the exclusion of a Federally approved regulation from this document does not diminish the enforceability of the regulation. Similarly, the inclusion of a given regulation (for example, regulations governing pollutants, such as odors, for which there is no national ambient air quality standards) in this document does not, in itself, render the regulation enforceable.

SUMMARY SHEET

OF

EPA-APPROVED STATE AND LOCAL REGULATIONS

NEBRASKA

Submittal Date	Approved Date	Description
1/28/72	5/31/72	Regulation for city of Omaha and Lincoln-Lancaster County.
8/5/75	6/23/77	New regulations for the state (Note: supercedes all previous state regulations.)
11/2/76	5/18/77	Rule 17

FEDERAL REGULATIONS

Section No.	Description
52.1429	Source Surveillance: Regulation for Control of Visible Emissions.
52.1436	Regulation for Prevention of Significant Deterioration of Air Quality.

DOCUMENTATION OF CURRENT EPA-APPROVED STATE AIR POLLUTION REGULATIONS

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- 2.0 GENERAL PROVISIONS AND ADMINISTRATIVE PROCEDURES
- 3.0 REGISTRATION CERTIFICATES, OPERATING PERMITS AND APPLICATIONS
- 4.0 AIR QUALITY STANDARDS (PRIMARY AND SECONDARY)
  - 4.1 PARTICULATES
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  - 4.3 NITRIC OXIDES
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  - 4.5 CARBON MONOXIDE
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- 5.0 VARIANCES
- 6.0 COMPLIANCE SCHEDULES
- 7.0 EQUIPMENT MALFUNCTION AND MAINTENANCE
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- 50.2 SULFUR COMPOUNDS
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- 50.7 OTHERS (Pb, Hg, etc.)

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- 51.2 COAL OPERATIONS (includes Cleaning, Preparation, Coal Refuse Disposal Areas, Coke Ovens, Charcoal Kilns, Related Topics)
- 51.3 CONSTRUCTION (includes Cement Plants, Materials Handling, Topics Related to Construction Industry)
- 51.4 FERROUS FOUNDRIES (includes Blast Furnaces, Related Topics)
- 51.5 FUEL BURNING EQUIPMENT (coal, natural gas, oil) - Particulates (includes Fuel Content and Other Related Topics)
- 51.6 FUEL BURNING EQUIPMENT (coal, natural gas, oil) - SO_2 (includes Fuel Content and Other Related Topics)
- 51.7 FUEL BURNING EQUIPMENT (oil, natural gas, coal) - NO_2 (includes Fuel Content and Other Related Topics)
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- 51.11 NON-FERROUS SMELTERS (Zn, Cu, etc.) - Sulfur Dioxide
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- 51.13 OPEN BURNING (includes Forest Management, Forest Fire, Fire Fighting Practice, Agricultural Burning and Related Topics)
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(1.0) RULE 1. DEFINITIONS

Definitions included here apply to the proposed state regulations in this section and to Appendix I.

"Act" means the Clean Air Act (42 U.S.C. 1857-1871, as amended by Public Law 91-604, 84 Stat. 1676).

"Administrator" means the Administrator of the Environmental Protection Agency.

"Affected Facility" means, with reference to a stationary source, any apparatus to which a standard of performance is specifically applicable.

"Agency" means the Environmental Protection Agency.

"Air Contaminant" or Air Contamination" shall mean the presence in the outdoor atmosphere of any dust, fumes, mist, smoke, vapor, gas or other gaseous fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere.

"Air Pollution" shall mean the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration as are or may tend to be injurious to human, plant or animal life.

"Air Pollution Control Agency" means any of the following:

1. A single state agency designated by the Governor as the official state air pollution control agency for purposes of this Act.
2. An agency established by two or more states and having substantial powers or duties pertaining to the prevention and control of air pollution.
3. A city, county of other local government health authority; or in the case of any city, county, or other local government in which there is an agency other than the health authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution, such other agency; or
4. An agency of two or more municipalities located in the same state or in different states and having substantial powers or duties pertaining to the prevention and control of air pollution.

"Ambient Air" means the portion of the atmosphere, external to buildings, to which the general public has access.

"Area Source" means any small residential, governmental, institutional, commercial, or industrial fuel combustion operations; on site waste disposal facility, vessels, or other transportation facilities; or other miscellaneous sources, as identified through inventory techniques similar to those described in "A Rapid Survey Technique for emissions," Public Health Service Publication No. 999-AP-29, October 1966.

"Chairman" shall mean the chairman of the Environmental Control Council, and "council" shall mean the Environmental Control Council.

"Chief" means the chief of the Nebraska Division of Air Pollution Control, employed and compensated by the Department of Environmental Control and authorized to carry out duties prescribed by the Department in accordance with the laws of Nebraska as may be necessary to fulfill the provisions of the Environmental Protection Act.

"Commence Construction" means to engage in a continuous program of construction including site clearance, grading, dredging, or land filling specifically designed for a source in preparation for the fabrication, erection, or installation of the building components of the source.

"Complaint" shall mean any charge, however informal, to or by the Department, that any person or agency, private or public, is polluting the air or is violating the provisions of this act or any rule or regulations of the council in respect thereof.

"Complex Source" shall mean a facility that has or leads to secondary activity which emits or may emit a pollutant for which there is a National Air Quality Standard.

"Control" and "Controlling" shall include prohibition and prohibiting as related to air pollution.

"Control Strategy" shall mean a plan to attain National Ambient Air Quality Standards or to prevent exceeding these standards.

"Department" shall mean the Department of Environmental Control.

"Designated Area" for the purpose of review of complex sources, shall mean all Standard Metropolitan Statistical Areas in Nebraska.

"Director" shall mean the Director of the State Department of Environmental Control.

"Emissions" shall mean releases or discharges into the outdoor atmosphere of any air contaminant or combination thereof.

"Emission Data means chemical analysis of process fuel and the manufacturing or production process as well as operational procedure and actual nature and amounts of emissions.

"Existing Source" shall mean equipment, machines, devices articles, contrivances, or installations which are in being on the effective date of these regulations.

"Fuel Burning Equipment" shall mean any furnace, boiler, apparatus, stack, and all appurtenances thereto, used in the process of burning fuel.

"Fugitive Dust" shall mean solid airborne particulate matter emitted from any source other than a flue or stack.

"Hazardous Air Pollutant" means as air pollutant to which no ambient air quality standard is applicable and which in the judgement of the Administrator may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

"Interstate Air Pollution Control Agency" means:

1. An air pollution control agency established by two or more states, or
2. An air pollution control agency of two or more municipalities located in different states.

"Incinerator" shall mean any article, equipment, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning, consisting of refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

"Local Agency" means any air pollution control agency in this state, other than a state agency, which is charged with responsibility for carrying out part of a plan.

"Modification" means any physical change in, or change in method of operation of, an affected facility which increases the amount of any air pollutant, except that:

1. Routine maintenance, repair, and replacement shall not be considered physical changes, and
2. An increase in the production rate or hours of operation shall not be considered a change in the method of operation.

"National Standard" means either a primary or a secondary standard established pursuant to the Act.

"New Source" means any stationary source the construction or modification of which is commenced after the publication of regulations by the State of Nebraska or the federal government prescribing a standard of performance which will be applicable to such sources.

"Opacity" shall mean a state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view.

"Open Fires" shall mean the burning of any matter in such a manner that the products of combustion resulting from such fires are emitted directed into the ambient air without passing through an adequate stack, duct, or chimney.

"Owner or Operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

"Particulate Matter" shall mean any material, except water in the uncombined form that is or has been airborne and exists as a liquid or a solid at standard conditions.

"Person" shall mean any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state of political subdivision or agency thereof or any legal successor, representative, agent, or agency of the foregoing.

"Performance Test" means measurements of emissions or other procedures used for the purpose of determining compliance with a standardard of performance.

"Plan" means an implementation plan, under Section 110 of the Act, to attain and maintain a national standard.

"Point Source" means:

1. Any stationary source causing emissions in excess of 100 tons (90.7 metric tons) per year of any pollutant for which there is a national standard in a region containing an area whose 1970 "urban place" population, as defined by the Bureau of the Census, was equal to or greater than 1 million; or

2. Any stationary source causing emissions in excess of 25 tons (22.7 metric tons) per year of any pollutant for which there is a national standard in a region containing an area whose 1970 "urban place" population, as defined by the U.S. Bureau of the Census, was less than 1 million, and

3. Without regard to amount of emissions, stationary sources such as those listed in Appendix C 36 F.R. 15497 (8-14-71).

"Primary Standard" means a national primary ambient air quality standard promulgated pursuant to Section 109 of the Act.

"Process" shall mean any action, operation or treatment, and all methods and forms of manufacturing or processing, that may emit smoke, particulate matter, gaseous matter, or other air contaminant.

"Process Weight" shall mean the total weight of all materials introduced into any source operation. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not.

"Process Weight Rate" shall mean for continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof. For a cyclical or batch source operation, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the number of hours of actual process operation during such a period. Where the nature of any process or operation, or the design of any equipment, is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

"Ringelmann Chart" shall mean the chart, published and described in the U.S. Bureau of Mines Information Circular 8333.

"Region" means:

1. An air quality control region designated by the Secretary of Health, Education, and Welfare or the Administrator;

2. Any area designed by the State as an air quality control region.

"Regional Administrator" means the Regional desigee appointed by the Administrator.

"Rule or Regulation" shall mean any rule or regulation of the council.

"Secondary Standard" means a national secondary ambient air quality standard promulgated pursuant to Section 109 of the Act.

"Source" shall mean any property, real or personal, or person contributing to air pollution.

"Stack or Chimney" shall mean any flue, conduit, or duct arranged to conduct emissions.

"Standard of Performance" means a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction) the Administrator determines has been adequately demonstrated.

"Startup of Operation means the beginning of routine operation of an affected facility.

"State Agency" means the Nebraska Department of Environmental Control established by the Nebraska Environmental Protection Act.

"Stationary Source" means any building, structure, facility , or installation which emits or may emit any air pollutant.

> Legal Citation: Rule 1, APC, Nebraska Department of Environmental Control

(2.0) RULE 2. REGIONS AND SUBREGIONS: HOW CLASSIFIED

A. Four basic Air Quality Control Regions are hereby designated for the state of Nebraska:

1. The Nebraska Intrastate Air Quality Control Region includes all counties (and subdivisions therein) within the boundaries of the state exclusive of those counties included in one of the other three Air Quality Control Regions. Figure 2-2 shows the locations of all four Air Quality Control Regions.

2. The Lincoln-Beatrice-Fairbury Intrastate Air Quality Control Region includes only Dakota County in Nebraska; two counties in Iowa and one in South Dakota for the largest part of the whole region.

3. The Metropolitan Sioux City Interstate Air Quality Control Region includes only Dakota County in Nebraska; two counties in Iowa and one in South Dakota for the largest part of the whole region.

4. The Omaha-Council Bluffs Interstate Air Quality Control Region includes the counties of Douglas and Sarpy in Nebraska and Pottawattamie in Iowa.

B. Lancaster County is hereby designated as a subregion of the Lincoln-Beatrice-Fairbury Intrastate Air Quality Control Region.

Statute:	81-1504 (2) (13) (14) 81-1505 (1) (12)
Legal Citation:	Rule 2, APC, Nebraska Department of Environmental Control

(13.0) RULE 3. REPORTING; WHEN REQUIRED

A. No person shall:

1. Use any processing machine, equipment, device or other article or combination thereof, capable of emitting any potential contaminant emission equal to, or in excess of those levels specified in Rule 3(d) of this regulation,

2. Use any indirect heating equipment with a rated or operating capacity equal to, or in excess of that listed in Rule 3(d) of this regulation,

3. Use any incinerator with a rated or operating capacity in excess of that listed in Rule 3(d) of this regulation, or

4. Conduct any open burning operations, without having reported such use or operation to the Department in the manner prescribed in Rule 3(c) of this regulation. Copies of the reports submitted to the Department shall be retained by the owner or operator for two (2) years after the pertinent report is submitted. The use of such items existing at the time of the effective date of this regulation or the conducting of existing open burning operations shall not be considered in violation of this reporting requirement until sixty (60) days after the effective date of this use or operation is notified in writing by the Department that such use or operation shall submit the required report to the Department within sixty (60) days.

B. In the event that the Department fails to notify a source to report that is subject to reporting under Rule 3(d) of this regulation, the person responsible for such source shall request forms for reporting from the Department within sixty (60) days from the effective date of these regulations and shall submit the report as required in this regulation.

C. Reports required in Rule 3(a) of this regulation and approval of installation and construction required in Rule 4 shall be on forms furnished by the Department, shall be required periodically and shall include the following information:

1. The location of the existing or proposed facilities, alterations or operations.

2. A description of the existing or proposed facilities, modifications or operations including all processes employed; normal hours of operation; the nature and amounts

of fuel and other materials involved; the probable nature, rate of discharge, and time duration of contaminant emissions; and any such other information as is relevant to air pollution control and available or capable of being assembled in the normal course of operations. As specified in Rule 4(b)(4) for complex sources, additional required information shall include the total vehicle capacity before and after construction or expansion, number of people using or engaging in any enterprises or activities at the facility, expected traffic for one hour and eight hour durations, estimated maximum emissions, and measured or estimated ambient air quality data.

3. The name and mailing address of the person legally responsible for the reported activity.

D. This regulation shall apply to:

1. All processing machines, equipment, devices or other articles or combinations thereof having a potential contaminant emission rate of:

   a. Ten (10) or more pounds of particulate during any hour of operation.

   b. Two (2) or more pounds of SO_2 and/or SO_3 during any hour of operation.

   c. Fifty (50) or more pounds of Oxides of Nitrogen (calculated as NO_2) during any consecutive 24 hour period.

2. All coal burning devices used in indirect heating equipment and having a rate or operating input capacity of 600,000 BTU's per hour or more; all fuel oil burning devices burning other than Grade 1 or 2 fuel oil used in indirect heating equipment and having rated or operating input capacity in excess of 100,000,000 BTU's per hour or more.

3. All incinerators used for refuse disposal or for the processing of salvageable materials except refuse incinerators located on residential premises containing five or less dwelling units.

4. Any source, except vehicular sources, or operation responsible for the emission of particulate plumes of such opacity so as to render them visible, provided that such emissions are reported to the Department to be interfering with the enjoyment of life and property by two or more unrelated individuals.

5. Any source notified by the Department to report.

Statute: 81-1504 (2 (13)
81-1505 (12) (15)

Legal Citation: Rule 3, APC, Nebraska Department of Environmental Control

(10.0)
(3.0) RULE 4. NEW AND COMPLEX SOURCES; STANDARDS OF PERFORMANCE, APPLICATION FOR PERMIT, WHEN REQUIRED

A. Standards of Performance for New Stationary Sources.

The "Standards of Performance for New Stationary Sources" published December 23, 1971 in 36 Federal Register 24876 with amendments in effect on the effective date of these regulations, and those published on March 8, 1974 in 39 Federal Register 9308 are hereby adopted and incorporated herein as standards pertaining to new stationary sources for fossil-fired steam generators municipal incinerators, portland cement plants, nitric acid plants, sulfuric acid plants, asphalt concrete plants, petroleum refineries, storage vessels for petroleum liquids, secondary lead smelters, secondary brass and ingot production plants, iron and steel plants and municipal sewage treatment plants in the State of Nebraska.

B. Application Required

No person shall cause:

1. Installation or modification of any processing machine, equipment, device, or other article or combination thereof, capable of emitting any potential contamination emissions equal to or in excess of the levels specified in Rule 3(d) of this regulation, or

2. Installation or modification of any indirect heating equipment with a rated or operating input capacity equal to or in excess of that listed in Rule 3(d) of this regulation, or

3. Installation or modification of any waste incinerator with a rated or operating capacity in excess of that listed in Rule 3(d) of this regulation, or

4. Construction or expansion of:

   a. Any complex source in a non-designated area which: has parking capacity for 2,000 or more vehicles, is modified to increase parking capacity by 1,000 vehicles or more, or which induces 2,000 or more auto trips, in any one hour or 10,000 or more trips in eight (8) hours, or

   b. Any complex source in a designed area which: has a parking capacity of 1,000 vehicles or more, is modified to increase capacity by 500 vehicles or more, or which induces 1,000 or more auto trips in any one hour or 5,000 or more trips in eight (8) hours, or

   c. New roads or highways in either a designated or non-designated area which are expected to carry 2,000 vehicles in any one hour or an average daily traffic 20,000 or more at any time within ten (10) years of construction: or any modified roads or highways expected to increase existing average daily traffic volume by 10,000 vehicles or more at any time within ten (10) years after modification, or

   d. Airports served by regularly scheduled air carriers without having first applied for a construction permit for such proposed activity to the Department in the manner prescribed by Rule 3 of these Rules and Regulations, at least sixty (60) days prior to beginning installation, modification, or construction. The granting of a permit to construct shall not affect the responsibility of the owner or operator to comply with applicable portions of the control strategy. When installation or modfication of a stationary source is completed, a provisional permit to operate must be obtained until the requirements of Rule 17(d) are performed. The owner or operator of any new or modified stationary source shall notify the Department of anticipated start-up date not more than sixty (60) days nor less than thirty (30) days prior to such start-up date.

C. Purpose of Application

Information required is to be used by the State Department of Environmental Control to determine if the new or modified stationary source will interfere directly or indirectly with attainment or maintenance of National Primary and Secondary Ambient Air Quality Standards, or violate any portion of an existing control strategy.

D. Issuance of Permits

The Director will register the application on receipt and review the accompanying documentation, and such other information as he may require. Within thirty (30) days after receipt of an application for permit to construct any source, the Director will notify the public of such application by prominent advertisement in the region affected and will make available all information submitted by the applicant, including the Director's proposed approval or disapproval. Comments received within thirty (30) days after the date this information is made available will be considered by the Director in making his final decision. Within the thirty (30) day comment period the applicant, or any, interested person or group of persons may request or petition the Director for a public hearing, and

1. The Director may, in his discretion, hold an adjudicative hearing on the granting or denial of the permit if he determines that the circumstances justify it, or

2. The Director shall hold an adjudicative hearing if it appears that the granting or denial of the permit interferes with or impairs or threatens to interfere with or impair the legal rights of the permit applicant or any person so that the situation falls within Rule 23(1) or (2) of the Department's Rules of Practice and Procedure, or

3. The Director may hold a public hearing if the comments, requests or petitions raise legal, policy or discretionary questions of general application not pertaining solely to a particular party and significant public interest exists with respect to the application.

   Following the thirty (30) day comment period and/or the public hearing the Director will determine whether or not to issue a permit. Approval, by issuance of a permit for any construction or modification, does not relieve the owner or operator from his responsibility to comply with the applicable portions of the Implementation Plan control strategy. If construction or modification of the source is not commenced within two years, the construction permit shall lapse except upon a showing by the permitee that the complexity of the construction or modification requires additional time.

E. Disapproval of Application for Permits

If it is determined by the Director that the construction or modification of any source will violate the "Standards of Performance for New Stationary Sources," violate any portion of these rules and regulations, or interfere with attainment of maintenance of a national ambient air quality standard, no permit will be granted until necessary changes are made in the plans and specification to obviate the objections to issuance. No permit to construct will be issued for construction or modification of any new source that will emit one ton per hour or more of particulate matter or sulfur dioxide if the proposed new source to be constructed or modified is within twenty (20) miles of any existing source emitting one ton per hour or more of particulate matter or sulfur dioxide. The preliminary order prohibiting construction will be issued within sixty (60) days of receipt of the application. The Director will set forth his reasons for denial of any permit. Appeals from such an order may be made according to Rule 49 of this Department's Rules of Practice and Procedure.

Statute:	81-1504(1) (2) (7) (10) (11) (13) (20) 81-1506(2) (b) (c) (d) (e) (3) (4) (6) 81-1505(1) 81-1509(1)
Legal Citation:	Rule 4, APC, Nebraska Department of Environmental Control

(50.1) RULE 5. PROCESS OPERATIONS; PARTICULATE EMISSION LIMITATIONS FOR EXISTING SOURCES

No person shall cause, suffer, allow or permit the emission of particulates from any processing machine, equipment, device or other articles, or combination thereof, except indirect heating Table 2-1 during any hour.

When portable equipment is transferred from one location to another, the Department shall be notified in writing at least thirty (30) days prior to transferring to the new location. The owner or operator will be notified at least ten (10) days prior to the schedule relocation if said relocation will be permitted.

Statute:	81-1504(2) (4) (13) 81-1505(1) (12) (15) (18) 81-1506(1) (2)
Legal Citation:	Rule 5, APC, Nebraska Department of Environmental Control

TABLE 2-1

Process Weight Rate		Rate of Emission	Process Weight Rate		Rate of Emission
Lb/Hr	Tons/Hr	Lb/Hr	Lb/Hr	Tons/Hr	Lb/Hr
100	0.05	0.551	16,000	8.000	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.	19.2
600	0.30	1.83	30,000	15.	25.2
800	0.40	2.22	40,000	20.	30.5
1,000	0.50	2.58	50,000	25.	35.4
1,500	0.75	3.38	60,000	30.	40.0
2,000	1.00	4.10	70,000	35.	41.3
2,500	1.25	4.76	80,000	40.	42.5
3,000	1.50	5.38	90,000	45.	43.6
3,500	1.75	5.96	100,000	50.	44.6
4,000	2.00	6.52	120,000	60.	46.3
5,000	2.50	7.58	140,000	70.	47.8
6,000	3.00	8.56	160,000	80.	49.0
7,000	3.50	9.49	200,000	100.	51.2
8,000	4.00	10.4	1,000,000	500.	69.0
9,000	4.50	11.2	2,000,000	1,000.	77.6
10,000	5.00	12.0	6,000,000	3,000.	92.7
12,000	6.00	13.6			

Interpolation of the data in this table for process weight rates up to 60,000 Lb/Hr shall be accomplished by use of the equation $E=4.10p^{.67}$ and interpolation and extrapolation of the data for process weight rates in excess of 60,000 Lb/Hr shall be accomplished by use of the equation $E=55.0p^{.11}-40$, where E=rate of emission in Lb/Hr and P = process weight rate in Tons/Hr. If two or more units discharge into a single stack, the allowable emission rate will be determined by the sum of all process weights discharging into the single stack.

(51.5) RULE 6. FUEL BURNING EQUIPMENT; PARTICULATE EMISSIONS LIMITATIONS FOR EXISTING SOURCES

A. No person shall cause or allow particulate matter caused by the combustion of fuel to be emitted from any stack of chimney into the outdoor atmosphere in excess of the hourly rate set forth in the following table:

(see Figure 2-1 for illustrative purposes only)

Total Heat Input in Million British Thermal Units Per Hour	Maximum Allowable Emissions of Particulate Matter in Pounds per Million British Thermal Units
10 or less	0.60
3,800 or more	0.15

B. The allowable emission rate for equipment having immediate heat input between 10 (10^6) BTU and 3,800 (10^6) BTU may be determined by the formula:

$$A = \frac{1.026}{I^{.233}}$$

A = The allowable emission rate in Lb/Hr 10^6 BTU
I = The total heat input in 10^6 BTU/Hr

For the purpose of these regulations, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack, or the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel burning units at a plant or on a premises shall be matter which may be emitted.

Statute: 81-1504(2) (4) (13)
81-1505(1) (12) (15) (18)
81-1506(1) (2)

Legal Citation: Rule 6, APC, Nebraska Department of Environmental Control

(51.9) RULE 7. INCINERATORS: EMISSION STANDARDS

These regulations shall apply to all existing incinerators used for refuse disposal or for the processing of salvageable materials except refuse incinerators located on residential premises containing five or less dwelling units and used exclusively for the disposal of waste originating on said premises.

A. No person shall cause or permit emissions of particulate matter to be discharged into the outdoor atmosphere:

   1. From any incinerator with a waste burning capacity less than 2,000 pounds per hour, to exceed 0.2 grains of particulate matter per standard dry cubic foot of exhaust gas, corrected to twelve percent (12%) carbon dioxide.

   2. From any incinerator with a waste burning capacity equal to or in excess of 2,000 pounds per hour, to exceed 0.1 grains of particulate matter per standard dry cubic foot of exhaust gas corrected to twelve percent (12%) carbon dioxide. In correcting the grain loading to twelve percent (12%) carbon dioxide, the exhaust gases contributed by the burning of a liquid or gaseous fuel shall be excluded.

B. The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate or such other rate as may be determined by the Director in accordance with good engineering practice.

C. Waste burned during performance testing required by Rule 17 shall be representative of the waste normally generated by the affected facility and shall be charged at a rate equal to the burning capacity of the incinerator.

D. Performance tests conducted after August 1, 1973, shall be recorded on incinerator test report forms (AP-9) supplied by the Department and available upon request. Copies of any additonal operational data recorded during the test shall be submitted to the Department together with the completed test report forms.

Statute:	81-1504(2) (4) (13) 81-1505(1) (12) (15) (18) 81-1506(1) (2)
Legal Citation:	Rule 7, APC, Nebraska Department of Environomental Control

(11.0) RULE 8. HAZARDOUS AIR POLLUTANTS; EMISSION STANDARDS

Certain emissions may, because of their chemical and/or physical nature require emissions rates lower than those provided for elsewhere in these regulations. In such cases the Department shall notify the person responsible for the emission, in writing of the reasons for special concern regarding the existing or proposed contaminant emission and specify an alternative emission rate which is not to be exceeded. The National Emission Standards for Hazardous Air Pollutants", published April 6, 1973, in 38 Federal Reister 8820 are hereby adopted and incorporated into these regulations.

Statute:	81-1504(2) (4) (13) 81-1505(1) (12) (15) (18) 81-1506(1) (2)
Legal Citation:	Rule 8, APC, Nebraska Department of Environmental Control

(50.2) RULE 9. SULFUR COMPOUND EMISSIONS; EMISSION STANDARDS

A. No person shall allow sulfur oxides to be emitted from any existing fossil fuel burning equipment in excess of two and one half (2.5) pounds per million BTU input, maximum 2-hour average.

For the purpose of these regulations, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack, or the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel burning units at a plant or on a premises shall be used for determining the maximum allowable of sulfur dioxide which may be emitted.

B. No person shall cause or allow sulfur oxides to be emitted from any existing equipment, other than fuel burning equipment, in excess of the following limits:

1. During any consecutive 12-month period, sulfur oxides in excess of the amount emitted during the 1971 calendar year.
2. During any 24-hour period, sulfur oxides exceeding the maximum amount emitted during any consecutive 24-hour period during the 1971 calendar year.
3. Nothing in sections B(1) and B(2) of this regulation shall be construed to allow sources to conduct operations not in accordance with Rules 3 and 4.
4. Nothing in b(1), B(2) and B(3) shall be interpreted to allow any source to operate in violation of emergency reduction plans pursuant to Rule 21.

5. If emission data for sulfur dioxide for the 1971 calendar year is not available, estimates of emissions shall be made based on materials processed or produced and appropriate emission factors developed by the U.S. Environmental Protection Agency.

C. No person shall cause or allow hydrogen sulfide (H_2S) to be emitted from any industrial source in quantities that result in a concentration greater than or equal to .01 parts per million averaged during any two 30-minute periods of time at or beyond the property line of the source.

Method of measurement for hydrogen sulfide (H_2S) shall be the Methylene Blue Method as specified in "Methods of Air Sampling and Analysis," published by the American Public Health Association.

Statute: 81-1504(2) (4) (13)
81-1505(1) (12) (15) (18)
81-1506(1) (2)

Legal Citation: Rule 9, APC, Nebraska Department of Environmental Control

(50.3) RULE 10. NITROGEN OXIDES (CALCULATED AS NITROGEN DIOXIDES); EMISSION STANDARDS FOR EXISTING STATIONARY SOURCES

Nitric Acid Manufacturing--No owner or operator of an installation producing nitric acid either as an end product or for use in intermediate steps in production of other products will exceed the following limitations on the emission of oxides of nitrogen (calculated as nitrogen dioxide):

A. 5.5 pounds per ton of 100 percent nitric acid produced; or

B. A concentration of nitrogen dioxide equivalent to 400 parts per million (p.p.m) by volume, whichever is more strigent.

Statute: 81-1504(2) (4) (13)
81-1505(1) (12) (15) (18)
81-1506(1) (2)

Legal Citation: Rule 10, APC, Nebraska Department of Environmental Control

(51.13) RULE 11. OPEN FIRES, PROHIBITED; EXCEPTIONS

A. No person shall cause or allow any open fires.

B. Exceptions:

1. Fires set solely for recreational purposes or for outdoor cooking of food for human consumption or other than commercial premises and no nuisance or hazard is created.

2. Fires set for the purpose of training public or industrial fire fighting personnel.

3. Fires set in the operation of smokeless flare stacks for the combustion of waste gases, provided they meet the requirements of Rule 13(A), Visible Emissions for Stationary Sources.

4. Fires set in an agricultural operation where no nuisance or traffic hazard is created. For the purpose of this regulation, "fires set in an agricultural operation" shall mean:

   a. The burning of any trees or vegetation indigenous to the property of the owner or person in lawful possesion of the land; or

   b. The burning of any agriculturally related material potentially hazardous and where disposal by burning is recommended by the manufacturer. Such materials must have been used on the owner's property or person in legal possession of the said property.

5. Unless prohibited by local ordinances, fires set to destroy household refuse on residential premises containing ten or less dwelling units, by individuals residing on the premises and no nuisance or traffic hazard is created.

6. Unless prohibited by local ordinances or regulations, fires set with the written permission of the Director:

   a. For the purpose of destroying dangerous materials, diseased trees, or abatement of a fire hazard.

   b. For the purpose of land clearing for roads or other construction activity.

   c. For the purpose of destroying wood and trees at community land disposal sites, in which case such burning must be distinctly separate from the disposal area for non-burnables.

d. For the purpose of plant and wildlife and parks management, provided such burning is conducted by the Nebraska Game Commision, the United States Forest Service, or the University of Nebraska.

Permits for open fires as specified in this regulation will be granted only if there is no other practical means of disposal. Any burning of materials not specified in the burning permit will result in immediate withdrawal of the permit.

Statute: 81-1504(2) (4) (13)
81-1505(1) (12) (15) (18)
81-1506(1) (2)

Legal Citation: Rule 11, APC, Nebraska Department of Environmental Control

(51.13) RULE 12. RESPONSIBILITY; DEFINED

It shall be prima facie evidence that the person who owns or controls property on which burning occurs has caused or permitted said open burning.

Statute: 81-1504(13)

Legal Citation: Rule 12, APC, Nebraska Department of Environmental Control

(50.1.2) RULE 13. VISIBLE EMISSIONS; PROHIBITED (EXCEPTIONS: SEE RULE 18)

Visible Emissions for Existing Stationary Sources. No person shall cause or allow emissions, except steam, from any existing sourch which are of a shade or density equal to or darker than that designated as No. 1 on the Ringelman Chart, or equivalent opacity of 20 percent (20%).

Statute: 81-1504(2) (4) (13)
81-1505(1) (12) (15) (18)
81-1506(1) (2)

Legal Citation: Rule 13, APC, Nebraska Department of Environmental Control

(50.1.3) RULE 14. DUST; DUTY TO PREVENT ESCAPE OF

A. Handling, Transporation, Storing. No person may cause or permit the handling or transporting or storage of any material in a manner which may allow particulate matter to become airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates.

B. Construction, Use, Repair, Demolition. No person may cause or permit a building or its appurtenances or a road, or a driveway, or an open area to be constructed, used, repaired or demolished without applying all such reasonable measures as may be required to prevent particulate matter from becoming airborne so that it remains visible beyond the premises where it originates. The Director may require such reasonable measures as may be necessary to prevent particulate matter from becoming airborne, including but not limited to paving or frequent cleaning of roads, driveways and parking lots; application of dust-free surfaces; application of water; and the planting and maintenance of vegetative ground cover.

Statute: 81-1504(2) (4) (13)
81-1505(1) (12) (15) (18)
81-1506(1) (2)

Legal Citation: Rule 14, APC, Nebraska Department of Environmental Control

(6.0) RULE 15. COMPLIANCE; TIME SCHEDULE FOR

Except as otherwise noted in specific emission control regulations compliance to these regulations shall be according to the following chedules:

A. All new or modified installations that required approval under the provisions of Rule 4 shall be in compliance with all applicable emission control regulations at start-up any time after the effective date of the applicable emission control regulation. Provided, however, such installation may, at the request of the operator and under conditions approved by the Department, be operated for such specified time periods as are required to make necessary adjustments on the equipment. Compliance must be demonstrated in conformance with Rule 17.

B. All existing installations and open burning operations subject to Rule 3(D) shall be in compliance with these regulations within one-hundred eighty (180) days after the effective date of these regulations and shall certify compliance and state the method used to determine compliance, unless the person responsible for the operation of such installation or open burning operation has submitted a request to, and received a variance from, the Department to continue such operation in nonconformance with the regulations for a specified period of time beyond the one-hundred eighty (180) day period provided for compliance. All notices of violation will be issued by the Department within thirty (30) days from receipt of reports. However, a notice of violation shall be issued later if observation or testing supplies additional information.

C. All requests for variance as provided for in Rule 16 of this regulation shall be submitted in writing to the Department not later than one-hundred twenty (120) days after the effective date of these regulations. It shall contain the following information.

1. A description of the particular operation or installation affected.

2. The reason for being unable to meet the one-hundred eighty (180) days' compliance requirement.

3. A specific time schedule showing increments of progress toward compliance, including:

    a. Date of submittal of the source's final control plan to the appropriate air pollution control agency.

    b. Date by which contracts for emission control systems or process modifications will be awarded; or date by which orders will be issued for the purchase of component parts to accomplish emission control or process modification;

    c. Date of initiation of on site construction or installation of emission control equipment or process change;

    d. Date by which on site construction or installation of emission control equipment or process change;

    e. Date by which final compliance is to be achieved.

4. The notarized signature of the person responsible for the operation or installation.

5. Any other supporting documentation specifically requested by the Department and deemed pertinent to consideration of the individual request.

D. In the Omaha-Council Bluffs Interstate Air Quality Control Region and the Lancaster County Subregion, final compliance with these rules and regulations shall be expeditiously as practicable but not later than July 31, 1975. For all other regions, final compliance with the emission limitations shall be:

1. All sources whose emissions prevent the attainment or maintenance of the primary ambient air quality standards must comply as expeditiously as practicable, but not later than July 31, 1975.

2. All other sources must comply as expeditiously as practicable but in no case later than July 31, 1976.

E. Compliance schedules requiring more than 12 months to conform with applicable rules and regulations to meet National Primary and Secondary Ambient Air Quality Standards will be accomplished in progressive steps. A report will be made in writing to the Director within five (5) days after each step is completed.

F. Failure to meet time schedules approved in accordance with Rule 15(B) and (C) of this regulation shall constitute a violation of these regulations unless a request to amend the time schedule is received at least thirty (30) days before the end of any specified period approved for a particular activity. Such a request to amend the schedule shall contain the same type of information as required for the initial request for variance as described in Rule 15(C).

Statute: 81-1504(1) (2) (4) (11) (13) (25)
81-1505(12) (15) (17)
81-1506(2)
81-1508(1) (B)
81-1513(1) (2) (3) (4) (5) (6) (7)

Legal Citation: Rule 15, APC, Nebraska Department of Environmental Control

(5.0) RULE 16. VARIANCE; REVISION OF STATE PLAN

Variances may not be granted without a public hearing where changes in the dates for increments of progress result in a change in the final compliance with emission limitations in requested past the attainment dates, as set forth in Rule 15, such request shall be considered a request for a revision under Section 110(A)(3) of the Clean Air Act, 42 U.S.C. 1857 et seq., and shall be granted only

1. If the extension meets the requirements of Section 110(A)(2);

2. The national ambient air standards will not be violated;

3. Sufficient evidence is adduced to determine if the applicant has exerted good faith efforts to comply with the Clean Air Act and rules and regulations promulgated thereunder by the

U.S. Environmental Protection Agency and the Department.

Hearings on revision requests shall be quasi-legislative in nature and held before the Nebraska Environmental Control Council after 30 days notice as provided in Section 81-1505(16), R.R.S. 1943.

Statute:	81-1513(1) (2) (3) (4) (5) (6) (7)
Cases:	Train v. NRDC, ___U.S. ___, April 16, 1975
Regulations:	40 CFR Part 51, Secs. 51.4(a) and (b)
Legal Citation:	Rule 16, APC, Nebraska Department of Environmental Control

(9.0) RULE 17. EMISSION SOURCES; TESTING; MONITORING

1. The department may require any person responsible for the operation of an emission source to make or have tests made to determine the rate of contaminant emissions from the source whenever it has reason to believe on the basis of estimates of potential contaminant emissions rates from the source and due consideration of probable efficiency of any existing control device, or visible emission determinations made by an official observer, that existing emissions exceed the limitations required in these control regulations. Such tests may also be required pursuant to verifying that any newly installed control device meets performance specifications. If such a test demonstrates that the applicable emission requirement is met, no more than one (1) such test shall be required during any twelve (12) consecutive calendar month period. Provided, however, that should the Department determine that the test did not represent normal operating conditions or emissions, additional tests may be required. Such a requirement shall be considered as an order and subject to all administrative and legal requirements specified.

   Required tests shall be conducted as specified in the December 23, 1971 and April 6, 1973 Federal Registers, or the Director can prescribe alternate procedures if the emissions from the affected facility are not susceptible to being tested by these methods. Such tests shall be conducted by reputable, qualified individuals, as approved by the Department, and a certified written copy of the test results signed by the person conducting the test shall be provided to the Department.

   The owner or operator of a source shall provide the Department ten (10) days notice prior to testing to afford the Department an opportunity to have an observer present.

2. The Department may conduct tests of emissions of contaminants from any stationary source. Upon written request from the Department, the person responsible for the source to be tested shall cooperate with the Department in providing all necessary test ports in stacks or ducts and such other safe and proper facilities, exclusive of instruments and sensing devices, as may be reasonably required to conduct the test with due regard being given to expenditures and possible disruption of normal operations of the source. A report concerning the findings of such tests shall be furnished to the person responsible for the source upon request.

3. No later than March 30, 1978 a continuous monitoring system for the measurement of opacity shall be installed and placed in operation by the owner or operator of any fossil-fired steam generator with greater than 250 million BTU per hour heat input. Exemptions from this requirement will be made if gaseous fuel and oil is the only fuel burned and the source has never been found to be in violation of Rule 13 of these regulations. Installation, calibration, operation and reporting shall be in accordance with the procedures specified in Volume 40, No. 194 of the Federal Register, October 6, 1975.

   The Director may require the owner or operator of any other emissions source which is subject to the provisions of these regulations to install, use and maintain such stationary monitoring equipment as is required to demonstrate continuing compliance with any applicable emissions limitations,and to maintain records and make reports regarding such measured emissions to the Department in a manner and on a schedule to be determined by the Director.

4. When a new or modified stationary source becomes operational, the owner or operator will submit a written report of performance tests to the Director within sixty (60) days after reaching maximum capacity but not later than one-hundred eight (180) days after the start-up of operations. Failure to meet established performance standards will result in withdrawal of the provisional approval granted to operate the new or modified stationary source. Final approval will be withheld for operation of the affected facility until such time as the owner or operator has corrected the deficiencies determined by the performance tests. Upon satisfactory accomplishment of a valid series of performance tests, approval for operation of the new or modified stationary source will be granted. Before and after construction of a complex source, the Director may

require ambient air monitoring be conducted by the person responsible to determine if National Ambient Air Quality Standards are being met.

Statute: 81-1504(1) (2) (11) (13) (15) (21) (24)
81-1508(1) (C)

Legal Citation: Rule 17, APC, Nebraska Department of Environmental Control

Effective Date:

(7.0) RULE 18. COMPLIANCE; EXCEPTIONS DUE TO BREAKDOWNS OR SCHEDULED MAINTENANCE

A. Abnormal operating conditions resulting from malfunction, breakdown, and/or necessary repairs to control of processing equipment and appurtenances which cause emissions in excess of the limitations specified in the emission control regulations shall not be deemed violations provided that:

1. The person responsible for the operation of the emission source notified the Department of the occurrence and nature of such malfunctions, breakdown, or repairs, immediately after noted occurrence.

2. The number of occurrences of such breakdowns is not deemed excessive by the Department and appropriate reasonable action is taken to initiate and complete any necessary repairs and place the equipment back in operation as quickly as possible.

B. Emissions in excess of the limitations specified in these emission control regulations resulting from scheduled maintenance of control equipment and appurtenances will be permitted only on the basis of prior approval by the Department and upon demonstration that such maintenance cannot be accomplished by maximum reasonable effort, including off-shift labor where required, during periods of shutdown of any related equipment.

C. Excessive contaminant emissions from fuel burning equipment used for heating purposes resulting from fuel or load changes, start-up, soot blowing, cleaning of fires, and rapping of precipitators will not be deemed violations provided that they do not exceed a period or periods aggregating more than five (5) minutes during any consecutive one (1) hour period. Provided, to the satisfaction of the Department that any specific operational procedures will require that the allowable time period for excessive emissions be extended beyond five (5) minutes during any one hour, the Department may authorize, upon request of the operator, an adjusted time schedule for permitting such excessive emissions. Such authorization shall require that visible emissions not exceed a shade or density darker than the designated as Ringelmann No. 3 on the Ringelmann Chart, and shall specify an appropriate time and daily frequency schedule for such excessive emissions.

Statute: 81-1504(2) (11) (12)
81-1505(1) (12) (15) (19)

Legal Citation: Rule 18, APC, Nebraska Department of Environmental Control

(2.0) RULE 19. CONTROL REGULATIONS; CIRCUMVENTION, WHEN EXCEPTED

A. No person shall cause or permit the installation or use of any machine, equipment, device or other article, or alter any process in any manner which conceals or dilutes the emissions of contaminants without resulting in a reduction of the total amounts of contaminants emitted.

B. Exception to Rule 19(A) of this regulation may be granted by the Department, upon request, provided that such action is intended to convert the physical and/or chemical nature of the contaminant emission and that failure to reduce total contaminant emissions results solely from the introduction of contaminants which are not deemed to be detrimental to the public interest.

Statute: 81-1505(1) (2) (4) (11) (12) (13) (25)
81-1505(12) (19)
81-1508(1) (2)
81-1513(1) (2) (3) (4) (5) (6) (7)

Legal Citation: Rule 19, APC, Nebraska Department of Environmental Control

(2.0) RULE 20. COMPLIANCE; RESPONSIBILITY OF OWNER/OPERATOR PENDING REVIEW BY DIRECTOR

Application for review of plans or advice furnished by the Director will not:

A. Relieve an owner or operator of a new or modified stationary source of legal compliance with any provision of these regulations; or

B. Prevent the Director from enforcing or implementing any provision of these regulations.

Statute: 81-1504(1) (2) (11) (13) (25)
81-1505(17)
81-1506(1) (3)

Legal Citation: Rule 20, APC, Nebraska Department of Environmental Control

(8.0) RULE 21. EMERGENCY EPISODES; OCCURRENCE AND CONTROL, CONTIGENCY PLANS

Whenever the Director finds that an emergency exists requiring immediate action to protect the public health and welfare, he shall issue an announcement to the general public. In addition, he is required to issue an order, showing the date of issuance, stating the existence of such an emergency and requiring such action be taken as deemed necessary to meet the emergency. The Director shall hold a hearing on the emergency order ten (10) days after its issuance.

Regulations which shall be enforced in the event of an Air Pollution Emergency Episode are attached hereto as Appendix I and hereby incorporated in these regulations the same as if set out herein verbatim. Appendix I is designed to prevent the excessive buildup of air pollutants to concentrations which can result in an imminent and substantial danger to public health.

A. Episode Criteria

Conditons justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the Director determines that the accumulaton of air pollutants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of persons. In making this determination, the Director will be guided by the following:

1. Air Pollution Forecast - An internal watch by the Department of Environmental Control shall be actuated by a National Weather Service Advisory that Atmospheric Stagnation Advisory is in effect or the equivalent local forecast of stagnant atmospheric conditions.

2. Alert - The "Alert" level is defined as that concentration of pollutants which require initiation of first stage emission control actions. An air pollution "Alert" will be declared when any one of the following levels is reached at any monitoring site:

SO_2 - 800 ug/m^3 (0.3 p.p.m.), 24 hour average
Particulates - 3.0 COH's or 375 ug/m^3, 24 hour average
SO^2 and Particulates combined - product of SO_2 p.p.m., 24 hour average, and COH's equal to 0.2 or product of SO_2 ug/m^3, 24 hour average, and Particulates ug/m^3, 24 hour average, equal to 65 x 10^3
CO -17 mg/m^3 (15 P.P.M.), 8 hour average
Oxidant (O_3) - 200 ug/m^3 - (0.1 P.P.M.) 1 hour average
NO_2 - 1130 ug/m^3 (0.6 p.p.m.), 1 hour average; 282 ug/m^3 (0.15 p.p.m.), 24 hour average

and, that meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase unless control actions are taken.

3. Warning - The "Warning" level indicated that air quality is continuing to degrade - pollutant concentrations are increasing - and that additional control actions are necessary. An air pollution "Warning" will be declared when any one of the following levels is reached at any monitoring site:

SO_2 - 1600 ug/m^3 (0.6 p.p.m.), 24 hour average
Particulates - 5.0 COH's or 625 ug/m^3, 24 hour average
SO^2 and Particulates combined - product of SO^2 p.p.m., 24 hour average, and COH's equal to 0.8 or product of SO_2 ug/m^3, 24 hour average and particulates ug/m^3, 24 hour average equal to 261 x 10^3.

CO - 34 mg/m^3 (30 p.p.m.), 8 hour average
Oxidant (O) - 800 ug/m^3 (0.4 p.p.m.), 1 hour average
NO_2 - 2260 ug/m^3 (1.2 p.p.m.), 1 hour average, 565 ug/m^3 (0.3 p.p.m.) 24 hour average.

and, meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase unless control actions are taken.

4. Emergency - The "Emergency" level indicated that air quality is continuing to degrade to a level that should never be reached, totally unacceptable, and that the most strigent actions are necessary. An air pollutin "emergency" will be declared when any one of the following levels is reached at any monitoring sites:

SO_2 - 2100 ug/m^3 (0.8 p.p.m.), 24 hour average
Particulates - 7.0 COH's or 875 ug/m^3, 24 hour average
SO_2 and Particulates combined - product of SO_2 p.p.m. 24 hour average, and COH's equal to 1.2 or product of SO_2 ug/m^3, 24 hour average, and particulates ug/m^3, 24 hour average, equal to 393×10^3.

CO - 46 mg/m^3 (40 p.p.m.), 8 hour average
Oxidant (O_3) - 1200 ug/m^3 (0.6 p.p.m.), 1 hour average
NO_2 - 3000 ug/m^3 (1.6 p.p.m.), 1 hour average; 750 ug/m^3 (0.4 p.p.m.), 24 hour average.

and, meteorological conditions are such that this condition can be expected to continue for twelve (12) or more hours.

5. Termination - When any of the above three levels of air pollution has been declared (by virture of pollutant concentrations meeting the defined criteria for the level) the declared level will remain in effect until the concentrations fall below the specified criteria. The new lower level(s) will be assumed until the pollutant concentrations decrease below the criteria declared "terminated". The concomitant "emission reduction actions" for any declared level cannot be relaxed until the declared level criteria are determined to be no longer met.

B. Emission Reduction Plans

1. Air Pollution Alert - When the Director declares an Air Pollution Alert, any person responsible for the operation source of air pollutants as set forth in Appendix I, Paragraph 6.3.1 shall take all Air Pollution Alert actions as are required for such source of air pollutants and shall put into effect the preplanned abatement strategy for an Air Pollution Alert.

2. Air Pollution Warning - When the Director declares an Air Pollution Warning, any person responsible for the operation of a source of air pollutants as set forth in Appendix I, Paragraph 6.3.2 shall take all Air Pollution Warning actions as required for such source of air pollutants and shall put into effect the preplanned abatement strategy for an Air Pollution Warning.

3. Air Pollution Emergency - When the Director declares an Air Pollution Emergency, any person responsible for the operation of a source of air pollutants as described in Appendix I, Paragraph 6.3.3. shall take all Air Pollution

Emergency Actions as required for such source of air pollutants and shall put into effect the preplanned abatement strategy for an Air Pollution Emergency.

4. When the Director determines that a specified criteria level has been reached at one or more monitoring sites solely because of emissions from a limited number of sources, he shall notify such source(s),that the preplanned abatement strategies of Appendix I, Paragraph 6.3.2 and 6.3.3 or of the standby plans are required insofar as it applies to such sources(s), and shall be put into effect until the criteria of the specified level are no longer met.

C. Preplanned Abatement Strategies

1. Any person responsible for the operation of a source of air pollutants as set forth in Appendix I, Paragraph 6.3.4 shall prepare standby plans for reducing the emission of air pollutants during periods of an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency. Standby plans shall be designed to reduce or eliminate emissions of air pollutants in accordance with the objectives set forth in Appendix I, Paragraph 6.3.1, 6.3.2, and 6.3.3 which are made a part of this section.

2. Any person responsible for the operation of a source of air pollutants not set forth under Appendix I, Paragraph 6.3.4 shall, when requested by the Director in writing, prepare standby plans for reducing the emission of air pollutants during periods of an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency. Standby plans shall be designed to reduce or eliminate emissions of air pollutants in accordance with the objectives set forth as above.

3. Standby plans as required under Sections (C) (1) and (C) (2) of Rule 21 shall be in writing and identify the sources of air pollutants, the approximate amount of reduction of pollutants and a brief description of the manner in which the reduction will be achieved during an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency.

4. During a condition of Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency, standby plans as required by this section shall be made available on the premises to any person authorized to enforce the provisions of applicable rules and regulations.

5. Standby plans as required by this section shall be submitted to the Director upon request within thirty (30) days of the receipt of such request; such standby plans shall be subject to review and approval by the Director. If, in the opinion of the Director, a standby plan does not effectively carry out in the objectives as set forth in Appendix I, Paragraph 6.3.1, 6.3.2 and 6.3.3, the Director may disapprove it, state his reason for disapproval and order the preparation of an amended standby plan within the time period specified in the order.

Statute:	81-1504(1) (2) (10) (11) (13) (25) 81-1505(1) (5) (12) (15) 81-1506(2) (e) 81-1507(4) 81-1512
Legal Citation:	Rule 21, APC, Nebraska Department of Environmental Control

(14.0) RULE 22. EMISSION DATA; AVAILABILITY TO PUBLIC

All emission data shall be made available for inspection by the public as provided by the Federal Clean Air Act of 1970, 42 U.S.C. 1857 et seq., during business hours.

Statute:	81-1504(6)
Legal Citation:	Rule 33, APC, Nebraska Department of Environmental Control

(12.0) RULE 23. VISIBLE EMISSIONS FROM DIESEL-POWERED MOTOR VEHICLES

No person shall operate a diesel-powered motor vehicle on any public street or highway in such a manner that smoke discharged from the exhaust is of a shade or density equal to or darker than that designated as No. 1 on the Ringelmann Chart or equivalent opacity of twenty percent (20%) for ten (10) consecutive seconds or longer. A suspected violator may demand that the suspected vehicle be tested by an approved smokemeter prior to a trial on the alleged violation.

Smokemeter tests shall be conducted (a) by or under the supervision of a person or testing facility authorized by the Director to conduct such tests, and (b) by installing an approved smokemeter on the exhaust pipe and operating the suspected vehicle in a manner similar to the manner of operation at the time of the alleged violation.

Statute:	60-2203

Legal Citation: Rule 23, PAC, Nebraska Department
Environmental Control

(15.0) RULE 24. COMPLIANCE; ACTIONS TO ENFORCE, PENALTIES FOR NON-COMPLIANCE

Failure to comply with the requirements of these regulations may be grounds for administrative enforcement proceedings as provided by Section 81-1507 R.R.S. 1943 or penalties in criminal proceedings brought in the discretion of the County Attorney or Attorney General pursuant to Section 81-1508 or in the case of Rule 23, pursuant to Section 60-2211, R.R.S. 1943.

Statute: 81-1506; 81-1507; 81-1508

Legal Citation: Rule 24, APC, Nebraska Department of
Environmental Control

(2.0) RULE 25. SEVERABILITY

If any clause, paragraph, subsection or section of these regulations shall be held invalid, it shall be conclusively presumed that the Environmental Control Council would have enacted the remainder of these regulations not directly related to such clause, paragraph, subsection or section.

Statute: 81-1504(13)

Legal Citation: Rule 25, APC, Nebraska Department of
Environmental Control

(16.0) RULE 26. APPEALS

Any appeal from any final order or final determination of the Director shall be pursuant to Section 81-1509 Revised Statutes Supplement, 1972.

Statute: 81-1509

Legal Citation: Rule 26, APC, Nebraska Department of
Environmental Control

(2.0) RULE 27. AMENDMENT OR REPEAL

These rules and regulations may be amended, or repealed, pursuant to Rules 65 through 68 of the Rules of Practice and Procedure of the Department of Environmental Control, which procedure shall conform in all respects to Sections 84-901 to 84-919, Reissue Revised Statutes of Nebraska, 1943, as amended.

Statute: 84-901 through 84-919

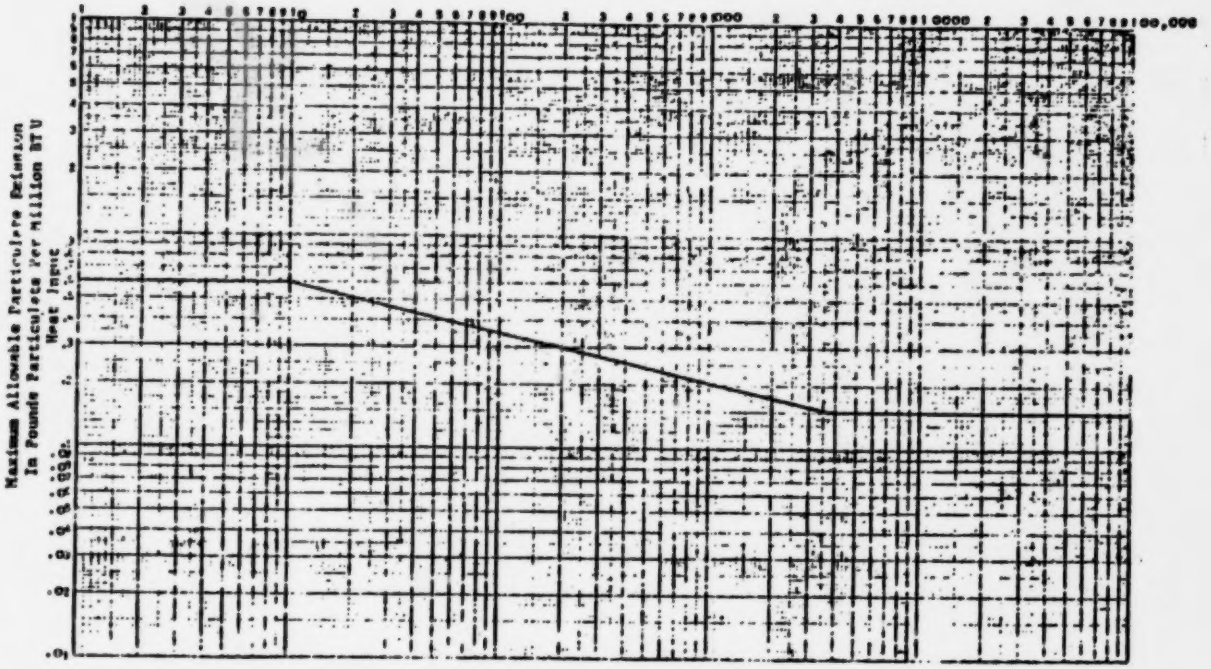
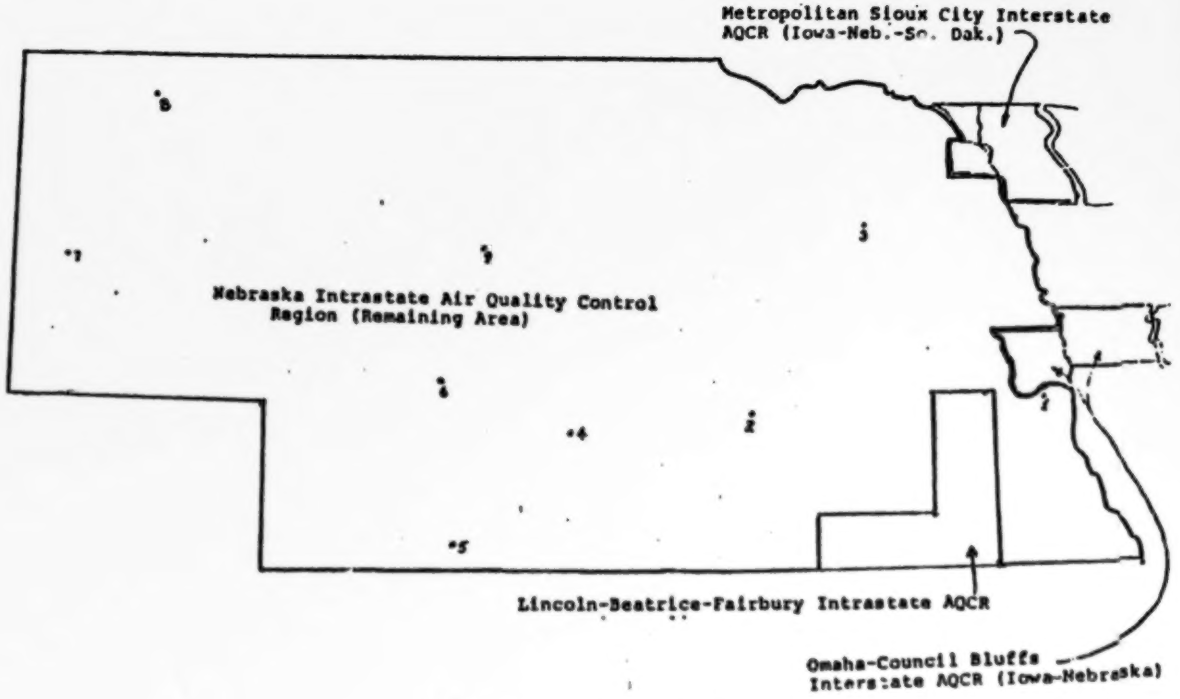
Maximum Allowable Particulate Emission
In Pounds Particulate Per Million BTU
Heat Input
1
.01
.02
1
2
3
4
5
6
7
8
9
10
100
1000
10000
100,000
Total Heat Input - Millions of BTU
Per Hour

Figure 2-1


Metropolitan Sioux City Interstate AQCR (Iowa-Neb.-So. Dak.)
Nebraska Intrastate Air Quality Control Region (Remaining Area)
Lincoln-Beatrice-Fairbury Intrastate AQCR
Omaha-Council Bluffs Interstate AQCR (Iowa-Nebraska)
8
7
9
3
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1
5

STATE OF NEBRASKA

Air Quality Control Regions

Figure 2-2

Legal Citation: Rule 27, APC, Nebraska Department of Environmental Control

(2.0) RULE 28. EFFECTIVE DATE AND REPEAL OF EARLIER RULES

These rules and regulations shall become effective five (5) days after filing with the Revisor of Statutes and the Secretary of State. Upon adoption of these rules and regulations, the prior, inconsistent rules and regulations adopted on February 26, 1974, December 14, 1974 and March 21, 1975 shall be repealed.

Statute: 84-907

Legal Citation: Rule 28, APC, Nebraska Department of Environmental Control

(8.0) APPENDIX I

(8.0) 6.3.0 EMERGENCY EMISSION REDUCTION REGULATIONS

The following regulations define the actions that shall be taken by the general populace and by specific point sources to prevent the excessive buildup of air pollutant concentrations under each of the three episode severity levels when, and as, declared by the Director.

6.3.1. ALERT LEVEL

A. General

1. There shall be no open burning by any person of tree waste, vegetation, refuse, or debris in any form.
2. The use of incinerators for the disposal of any form of solid waste shall be limited to the hours between 12:00 noon and 4:00 p.m.
3. Persons operating fuel-burning equipment which require boiler lancing or soot blowing shall perform such operations only between the hours 12:00 noon and 4:00 p.m.
4. Persons operating motor vehicles shall eliminate all unnecessary operations.

B. Source Curtailment

1. Any person responsible for the operation of a source of air pollutants listed below shall take all required control actions for this Alert level.

Source of Air Pollution	Control Actions
1. Coal or oil-fired electric power generating facilities	a. Substantial reduction by utilization of fuel having low ash and sulfur content.
	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
	c. Substantial reduction by diverting electic power generation to facilities outside of Alert area.
2. Coal and oil-fired process steam generating facilities.	a. Substantial reduction by utilization of fuels having low ash and sulfur content.
	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
	c. Substantial reduction of steam load demands consistent with continuing plant operations.
3. Manufacturing industries of the following classification: Primary Metals Industry Petroleum Refining Operations Chemical Industries Mineral Processing Industries Paper and Allied Products Grain Industry	a. Substantial reduction of air pollutants from manufacturing operations by curtailing, postponing, or deferring production and all operations.
	b. Maximum reduction by deferring trade waste disposal operations which emit solid particles,gas vapors or malodorous substances.
	c. Maximum reduction of heat load demands for processing.
	d. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.

6.3.2 WARNING LEVEL

A. General

1. There shall be no open burning by any person of tree waste, vegetation, refuse, or debris in any form.

2. The use of incinerators for the disposal of any form of solid waste or liquid waste shall be prohibited.

3. Persons operating fuel-burning equipment which required boiler lancing or soot blowing shall perform such operations only between the hours of 12:00 noon and 4:00 p.m.

4. Persons operating motor vehicles must reduce operations by the use of car pools and increased use of public transportation and elimination of unnecessary operation.

B. Source Curtailment

1. Any person responsible for the operation of a source of air pollutants listed below shall take all required control actions for this Warning level.

Source of Air Pollution	Control Action
1. Coal or oil-fired electric power generating facilities	a. Maximum reduction by utilization of fuels having the lowest ash and sulfur content.
	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
	c. Maximum reduction by diverting electric power generation to facilities outside of Warning Area.
2. Coal or oil-fired process steam generating facilities.	a. Maximum reduction by utilization of fuels having the lowest available ash and sulfur content.

	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing and soot blowing.
	c. Making ready for use a plan of action to be taken if an emergency develops.
3. Manufacturing industries which require considerable lead time for shut-down including the following classifications: Petroleum Refining Chemical Industries Primary Metals Industries Glass Industries Paper and Allied Products	a. Maximum reduction of air contaminants from manufacturing operations by, if necessary, assuming reasonable economic hardships by postponing production and allied operation.
	b. Maximum reduction by deferring trade waste disposal operations which emit solid particles, gases, vapors, or malodorous substances.
	c. Maximum reduction of heat load demands for processing.
	d. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.
4. Manufacturing industries which require relatively short lead times for shut-down including classifications: Petroleum Refining Chemical Industries Primary Metals Industries Glass Industries Paper and Allied Products	a. Elimination of air pollutants from manufacturing operations by ceasing, curtailing, postponing, or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
	b. Elimination of air pollutants from trade waste disposal processes which emit solid particles, gases, vapors, or malodorous substances.

c. Maximum reduction of heat load demands for processing.

d. Maximum utilization of midday (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

6.3.3 EMERGENCY LEVEL

A. General

1. There shall be no open burning by an persons of tree waste, vegetation, refuse, or debris in any form.
2. The use of incinerators for the disposal of any form of solid or liquid waste shall be prohibited.
3. All places of employment described below shall immediately cease operations:
    a. Mining and quarrying of non-metallic minerals.

    b. All construction work except that which must proceed to avoid emergent physical harm.

    c. All manufacturing establishments except those required to have in force an air pollution emergency plan.

    d. All wholesale trade establishments; i.e. places of business primarily engaged in selling merchandise to retailers, or industrial, commercial, institutional or professional users, or to other wholesalers, or acting as agents in buying merchandise for or selling merchandise to such persons or companies, except those engaged in the distribution of drugs, surgical supplies and food.

    e. All office of local, county and state government including authorities, joint meetings, and other public bodies excepting such agencies which are determined by the chief administrative officer of local, county or state government, authorities, joint meetings and other public bodies to be vital for public safety and welfare and the enforcement of the provisions of this order.

f. All retail trade establishments except pharmacies. surgical supply distributors. and stores primarily engaged in the sale of food.

g. Banks, credit agencies other than banks, securities and commodities brokers, dealers, exchanges and services; offices of insurance carriers, agents and brokers, real estate offices.

h. Wholesale and retail laundries, laundry services and cleaning and dyeing establishments; photographic studies; beauty shops, barber shops, shoe repair shops.

i. Advertising offices, consumer credit reporting, adjustment and collection agencies; duplicating, addressing, blueprinting, photocopying, mailing, mailing list and stenographic services, equipment rental services, commercial testing laboratories.

j. Automobile repair, automobile services, garages.

k. Establishments rendering amusement and recreational services including motion picture theaters.

l. Elementary and secondary schools, colleges, universities, professional schools, junior colleges, vocational schools, and public and private libraries.

4. All commercial and manufacturing establishments not included in this order will institute such actions as will result in maximum reduction of air pollutants from their operation by ceasing, curtailing, or postponing operations which emit air pollutants to the extent possible without causing injury to persons or damage to equipment.

5. The use of motor vehicles is prohibited except in emergencies with the approval of local or state police.

B. Source Curtailment

1. Any person responsible for the operation of a source of air pollutants listed below shall take all required control actions for this Emergency level.

	Source of Air Pollution	Control Action
1.	Coal or oil-fired electric power generating facilities	a. Maximum reduction by utilization of fuels having

	lowest ash and sulfur content.
	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.
	c. Maximum reduction by diverting electric power generation to facilities outside of Emergency Area.
2. Coal and oil-fired process steam generating facilities	a. Maximum reduction by reducing heat and steam demands to absolute necessities consistent damage.
	b. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.
	c. Taking the action called for in the emergency plan.
3. Manufacturing industries of the following classifications: Primary Metals Industries Petroleum Refining Chemical Industries Mineral Processing Industries Grain Industry Paper and Allied Products	a. Elimination of air pollutants from manufacturing operations by ceasing, curtailing, postponing or deferring production and allied operations to the extent possible without causing injury to persons or damage to equipment.
	b. Elimination of air pollutants from trade waste disposal processes which emit solid particles, gases, vapors, or malodorous substances.

c. Maximum reduction of heat load demands for processing.

d. Maximum utilization of mid-day (12:00 noon to 4:00 p.m.) atmospheric turbulence for boiler lancing or soot blowing.

6.3.4 MAJOR POINT SOURCES EMERGENCY REDUCTION PLANS

Any source of air pollution with the City of Omaha shall submit within thirty (30) days of request by the Omaha Division of Permits and Inspection a plan designed to reduce or eliminate the emission of air pollutants in accordance with the objectives specified in Paragraph 6.3.1(b) 6.3.2 (b) and 6.3.3(b). Any source in the Nebraska portion of the Omaha-council Bluffs Air Quality Control Region and not within the City of Omaha shall submit within thirty (30) days of request by the Department a plan designed to reduce objectives specified in Paragraphs 6.3.1(b), 6.3.2(b), and 6.3.3(b). Each such plan shall be subject to review and approval by the Department. If, in the opinion of the Department, a submitted plan does not effectively carry out the objectives specified, the Department may disapprove it, state reasons for disapproval and require preparation of an amended/revised plan within a specified time period.

A. Plan Description

Each plan shall be submitted in writing, shall identify the emitted pollutants, shall state the approximate amount (percentage) of expected reduction of pollutants and shall briefly describe the manner, method or technology employed to achieve the reduction during each severity level of an episode. Each plan, when approved by the Department, is (becomes) legally enforceable. During declared episodic conditions, a copy of the plan for a given source shall be made available on source premsies to any person(s) authorized to enforce the provisions of the plan.

B. Emergency Reduction Plans will be obtained from point sources within one (1) year after submission of this Plan. These will be submitted in semi-annual progress reports until such legally enforceable schedules are obtained from all point sources. Voluntary reduction will be negotiated with indirect sources.

(8.0) 6.4.0 EMERGENCY ACTION CENTER COMMUNICATION AND CONTROL PROCEDURES

The following paragraphs of the Emergency Episode Plan are desinged to "stand alone" as a "Manual of Operation" for the Omaha-Council Bluffs Interstate AQCR. It should be separated, reproduced and distributed as required to those members of the Emergency Episode team as designed at the Director.

6.4 . 1 COMMUNICATIONS

The functioning of the Emergency Action System is primarily that of maintaining the coordinating the communications between and among the various public agencies, the U.S. Weather Bureau Station, hospital and medical facilities, the emitting sources, the air quality monitoring station, news media, and the Emergency Action Center (EAC). Control of the system is focused in the EAC. This part of the manual services to define the system communication requirements, the means to fulfill these requirements and the responsibilities of the operating personnel.

6.4.1.1 REQUIREMENTS

Communication facilities of the EAS are provided by the Northwestern Bell Telephone Company and the Teletype Network established by the Weather Bureau. Unlisted number telephone lines will be made available in the EAC to allow access to the center only by authorized members of the System. This will preclude tieing up the center phones with non-essential traffic.

A. Meteorological Information

The U.S. Weather Bureau Station at Eppley Field enters meteorological information into the EAS via their local Teletype Network in the form of forecasts, advisories and bulletins. These inputs are made as often as a developing situation/episode demands. A terminal will be located in the EAC and connected to this network. The weather information is received in the EAC, evaluated and logged. Action responses to each weather input are, of course, determined by the nature of the report and the situation at the time of receipt. Added detail may be requested of the weather station by the EAC via direct telephone communication if and when necessary.

B. Air Quality Information

The normal reporting frequency of the various stations in the Air Quality Monitoring/Surveilance network is accelerated when first indications of a possible episode occurrence are recognized. Indications can be either the HAPP advisory from the weather station or an unusually severe pollutant level reached at any one or more station of the Air Quality Network. At the direction of the EAC director, the surveillance stations will employ, as appropriate, either messengers or the telephone to send their observations and/or reports to the processing center (at the Public Health Department) in accordance with the schedule required by the severity of the situation.

C. Directives

Instruction to emitting sources, police, medical facilities and

Air Quality Monitoring Station operators will be issued by the EAC as the situation dictates. The Communication Check List for each severity level of the episode will guide the EAC director/staff in issuing the necessary directives and instructions. Communication Check Lists are described under Paragraph 6.4.1.2. Telephone communication with each of the necessary contacts will provide the means to fulfill this requirement; however, police two-way radio facilities will be included as needed, dependent on the severity of the situation.

D. Public Information

The requirement to inform the populace of the situation in case of an episode occurrence, and to direct their appropriate/ mandatory responses is met through local press, radio and television facilities. The declaration statement appropriate to each severity level is issued by the EAC director for immediate publication. A press release is then prepared and released to the media (via the office of UPI in Omah) to provide the explanatory and instructive information supporting the declaration statement.

E. Effectiveness Reporting

The need for the EAC to monitor the effectiveness of abatement actions and to access the adherence to planned strategies of sources is fulfilled by the Permits and Inspection Division field inspectors supplemented by the police. Reporting of apparent violators or obvious ineffective results will be via telephone or police radio to the EAC. Dependent on the circumstances reported, the EAC will issue orders or instructions to correct the reported deficiency or violation using the same channels of communication.

6.4.2.2 PROCEDURES

For each of the episode levels, the procedures to be followed are centered in the use of a pair of forms. These forms are titled "Declaration Sheet" and"Communication Check Lists". The paragraphs which follow describe their use and the pertinent communication functions during each phase or level of an episode.

A. Forecast

When the possibility of an air pollution episode is first recognized a "Forecast Declaration Sheet" (see item 3) is posted on the EAC "Action Board". Entries are made on the sheet as follows:

1. Upon receipt of an advisory from the Weather Bureau forecasting possibility of an episode, enter the time and date information and the summary of the significant points in the advisory in the required spaces. Post the sheet on the EAC Action Bulletin Board, or

2. Record unusually high levels of pollution as reported by stations in the Air Quality Surveillance Net in the spaces provided. Evaluate this data, when sufficient to recognize a trend, and determine whether a "forecast" should be declared. If declared,

3. Prepare and enter the "Forecast Declaration Statement" on the sheet in the appropriate spaces. The content of the statement must clearly define the probable affect areas, contain the significant points from the Weather Bureau Forecast and the type of the pollutant(s) which appears to be of greatest concern. The statement should also stress that immediate action on the part of the public is not indicated.

4. Update the sheet as additional surveillance or meteorological information is received and evaluated.

5. Keep the sheet posted until either a decision to declare an ALERT is made or the possibility that episode conditions will develop has disappeared.

6. Enter the time of ALERT or Termination, remove the sheet from the board and file in the episode log.

When the "Forecast Declaration Statement" has been composed and entered on the "Notice" sheet (step 3 above), the "Forecast Communications Check List" is posted and :

1. EAC staff members will begin making the telecons as indicated on the list. Contact must be completed with the heads of agencies listed in the first group of the sheet. The remaining contacts to be completed will be selected by the director of EAC based on his estimate of the situation.

2. As each telecon is completed, the caller will initial and enter the time of completion in the appropriate column spaces next to the called number.

3. The sheet will remain posted until either an ALERT or Termination is declared. When removed, the sheet will be filed with the Declaration sheet in the episode log book.

Determination of specific actions to be taken during the period of an Episode Forecast involves many factors which will vary with each Forecast situation. Therefore, they cannot be considered in this planned set of procedures. However, some general guides are included below:

1. Although it should not be necessary to put all members of the Emergency Action team on duty during a Forecast situation, each member should be notified of the possibility/probability of spending extra duty time should the situation worsen.

2. Selection of emitting sources to be notified should take into consideration the length of lead time each may need to implement their emergency reduction plans.

3. Any press release(s) supporting the declaration statement should emphasize that only a "conservative" response by the public is called for.

B. Alert

When air quality deteriorates and meteorological forecasts indicate a continuing air stagnation (See Paragraph 6.2.2(a) preceding for detailed criteria) the procedures below should be followed to declare an Air Pollution Alert:

1. Remove the Forecast Notification Sheet and Communication Check List from the EAC Action Board and post the ALERT DECLARATION SHEET and ALERT Communication Check List in their places.

2. Prepare and enter the Declaration Statement on the sheet. Emphasize the need for people with respiratory, cardiac and related health deficiencies to safeguard their well-being. Briefly summarize steps to be taken by drivers of private cars, industry, etc. to reduce pollution and include an estimate of the duration of the "Alert".

3. Enter times and dates in the required spaces.

4. Keep the sheet posted until either the situation worsens to the point where a "Warning" must be declared or conditions improve to warrant declaration of "Termination".

5. Begin making the required telecons as defined on the Alert Communications Sheet. Follow the Procedures outlined for the Forecast telecons (6.4.2.2(a) preceding).

6. Maintain both forms on the EAC Action Board until either a Warning or Termination is declared. Then remove and file both in the Episode Log.

General guides to actions of the EAC during "Alert":

1. Convene all members of the EAS team for a briefing and assign a full field inspection team to insure compliance with reduction plans of the major pollution sources.

2. Request the Northwestern Bell Telephone Company to dedicate lines between the EAC and Weather Bureau, Health Center, Processing Center, Police Department, Civil Defense Headquarters and the Mayor's Office.

3. Ready and release press notices regularly.

4. Request reports of the major pollution sources regarding their individual progress in implementation of their reduction plans.

5. Insure that all Air Quality Surveillance stations are adequately manned and reporting according to the Alert accelerated schedule.

6. Establish and maintain the map(s)/display(s) necessary to keep close observation of the situation progress.

C. Warning

If/when pollution concentrations reach the levels defined for declaration of a "Warning" and meteorological data indicates a continuation of Stagnation (see Paragraph 6.2.2(b) for criteria), the following procedures are necessary in declaring the "Warning" status:

1. Remove the Alert Declaration and Communication Check List sheets from the EAC Action Board and replace them with the WARNING DECLARATION SHEET and Communication Check List. File the Alert sheets in the Episode Log.

2. Prepare and enter the Warning Declaration Statement. Emphasize the extreme caution anyone with health problems must take and include the emergency telephone number(s) to be called for medical/rescue aid. State the mandatory steps to be taken by the public, the pollution sources and emergency services (hospitals, doctors, police, fire and Civil Defense agencies).

3. Enter times and dates as required by the forms.

4. Accelerate placement of the telecons required on the Warning Communication Check List.

5. Maintain both forms with all weather and Air Quality/ Emission control updates.

General Guides to EAC actions during the "Warning":

1. Insure that adequate staffing of the EAC and processing center is maintained. Augment with "volunteer" help as needed.

2. Convey the urgency of the situation to all participating members of the EAS.

3. Alert hospitals, medical personnel, rescue squads, fire and police departments, Civil Defense units, etc. to the need for rapid response to calls for aid.

4. Issue hourly bulletins to press, radio and television facilities stating the progress of the total situation. Emphasize need to adhere to all directives/instructions regarding reduction of pollution and prevention of any further deterioration of air quality. Repeat emergency telephone numbers.

5. Request police enforcement of all regulations and immediate reporting of violations, degrading incidents, etc. and action(s) taken.

6. Request regular reports from emission sources of their reduction measures and resulting effectiveness.

7. Continue all procedures outlined for the Alert level not specifically changed above.

D. Emergency

If the episode severity reaches this level, a total state of emergency must be assumed by the entire area affected. Procedures for posting and maintaining the Emergency Declaration Statement sheet and Communication Check List are the same as for the "Warning" level. The role of the EAC at this Emergency state becomes one of supporting the Office of Mayor, and all area agencies in carrying out emergency measures primarily concerned with protection of public safety. Thus, the EAC and all members of the EAS must be geared to the most rapid response possible for request from these agencies.

E. Termination

Except for episodes caused by unusually high emissions from one or more specific sources, termination of any level of episode severity will occur only with an improvement in meteorological conditions. Thus, observations of the Weather Bureau, indicating imminent improvement in the stagnation causes is the major factor in terminating the episode. Procedures for declaring termination are similar to those defined previously for declaring any other level. The Termination Declaration Sheet and Communication List are posted in place of the last episode level sheets. The most important requirement in making the required telecons is to insure that all contacts made during any and all previous episode stages are recontacted to convey the relaxation of the instruction/directives then imposed.

F. Episode Reporting

Following termination of an episode of any level of severity, a report must be prepared for the director's signature including:

1. Summary of significant events, including dates and times, identification of difficulties, effectiveness of reduction actions, etc.
2. Summary of estimated costs to:
    a. EAC-EAS
    b. Other public agencies involved
    c. Sources
    d. Public response
    e. Detrimental health results - casualties, etc.

This report must be submitted to the Environmental Protection Agency, Region VII, E.P.A., Durham, and to the Nebraska Department of Environmental Control within ten (10) days of the termination date.

COMMUNICATION CHECK LIST

FORECAST

ALERT level declared at: ________ on ________
Time Date

Office/Individual To Be Called	Area Code	Phone Number	Caller's Initials	Time
Supt. Permits & Inspections, Public Safety - Omaha	402	341-8122 ext. 251		
Assoc. Chief, Environ. Health, Omaha-Douglas Co. Health	402	444-7486		
Director, Environmental Control, State of Nebraska - Lincoln	402	471-2186		
Asst. Chief, Air Prog., E.PA. Region VII - Kansas City	816	374-3791		
Director, Dept. of Environmental Quality, State of Iowa - Des Moines	515	281-5345		
Governor, State of Nebraska - Lincoln	402	471-2244		
Director, Douglas Co. Health - Omaha	402	348-7471		
Director of Health, State of Nebraska - Lincoln	402	471-2133		
Chairman, Environ. Control Council, Nebr. - Omaha	402	341-8122 ext. 343		
Chief, Air Pollution Control, Nebr. Dept. of Environ. Control - Lincoln	402	471-2186		
O.P.P.D. (Request liaison contact and forecast of power demand) - Omaha	402	536-4221		

Metropolitan Utilities District - Omaha	402	341-5760

COMMUNICATION CHECK LIST

ALERT

ALERT level declared at: ________ on ______
Time Date

The following telecons must be made from the EAC immediately upon declaration of ALERT level to inform each contact of the ALERT Declaration Statement

Office/Individual To Be Called	Area Code	Phone Number	Caller's Initials	Time
Recontact all names/ offices on Forecast List, then call the following:				
Mayor of Omaha - Omaha	402	341-8122 ext. 211		
Sheriff - Sarpy County, Nebraska	402	339-3274		
City Hall, City of Council Bluffs, Iowa	712	322-4061		
Civil Defense and Commander of Nebr. National Guard	402	432-7561		
or				
Asst. Civil Denfense - Omaha - Douglas Co.	402	333-2992 ext. 310		
Nebr. Tuberculosis & Respiratory Disease Assoc. - Omaha	402	342-2907		
Environmental Health - Omaha	402	348-7486		

Environmental Protection Agency - Durham, North Carolina	919	755-4613		
Sources Place calls to each emitter source requiring lead time preparation for possible implementation of reduction plans.				
News Media Contact UPI News Bureau Office and dictate the DECLARATION STATEMENT and any explanatory news releases as needed.				

COMMUNICATION CHECK LIST

WARNING

WARNING level declared at: _______ on _______
Time Date

The following telcons must be made from the EAC immediately upon declaration of WARNING level to inform each contact of the Warning Declaration Statement

Office/Individual to Be Called	Area Code	Phone Number	Caller's Initials	Time
Recontact all names/offices on both FORECAST and ALERT lists, then call the following:				
Chief of Police - City of Omaha	402	348-6666		
Chief of Police - City of Council Bluffs	712	322-2515		

Chief of Fire Dept. - City of Omaha	402	348-6700		
Sources Contact all sources (determine most likely to contribute to affected areas) to implement reduction plans immediately.				
News Media Recontact UPI to release new DECLARATION STATEMENT/Stress urgency of situation.				

COMMUNICATION CHECK LIST

EMERGENCY

Office/Individual To Be Called	Area Code	Phone Number	Caller's Initials	Time
Recontact all names/ offices or FORECAST, ALERT, WARNING lists, Then call the following:				
Director, Air Pollution Control, Lincoln-Lancaster Co. Health Dept. - Lincoln	402	475-6221		
Board of Education, Dist. 1, Omaha Public Schools	402	556-6600		
Sources Contact all sources to stress urgency of complete and immediate compliance with reduction plans.				
News Media Release hourly bulletins to keep public fully aware of situation developments.				

REGULATIONS
FOR
OMAHA, NEBRASKA

(2.0) 45.04.010 STATEMENT OF POLICY

It is hereby declared to be the public policy of the City of Omaha, and the purpose of this Title, to achieve and maintain such a reasonable degree of purity of the air resources of the City as will protect human health and safety, and to the greatest degree practicable to prevent injury to plant and animal life and foster the comfort and convenience of the people, promote the economic and social development of the City and facilite the enjoyment of its natural attractions.

To achieve these purposes, the City shall endeavor to obtain the voluntary compliance of all persons with the regulations concerning air contamination as hereinafter set forth.

The regulations hereinafter contained are based upon the best information presently available. It is anticipated that they will be subject to review and revision periodically as additional information and methods are developed. The City shall seek the accomplishment of these objectives through the prevention, abatement, and control of air pollution by all practical and economically feasible methods. (Ord. 14924 § 19-11.1; as amended by Ord. 15763; September 30, 1947, Ord. 25355 § 1; November 25, 1969, and Ord. 25524 § 1; May 26, 1970).

(1.0) 45.04.020 DEFINITIONS

As used in this Title, the following definitions shall apply.

A. "Air Contaminant" shall mean any smoke, soot, fly ash, dust, cinder, dirt, noxious or abnoxious acids, fumes, oxides, gases, vapors, odors, toxic substances radio active substances, waste matter, particulate matter, solid matter, liquid matter, gaseous matter, or any other material which by its presence in the ambient air may constitute air pollution, excluding uncombined water.

B. "Air Contaminant Source" shall mean any source of emission of an air contaminant whether privately or publicly owned or operated.

C. "Air Pollution" shall mean the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration that they are or may tend to be injurious to human, plant or animal life, or interfere with the enjoyment of life, property or the conduct of business.

D. "Ambient Air" shall mean the air that envelops or surrounds the earth and includes all space outside of buildings, stacks or exterior ducts.

E. "Atmosphere" see Ambient Air.

F. "Building Official" shall mean the Superintendent of the Permits and Inspections Division of the Public Safety Department of the City of Omaha.

G. "City" shall mean the City of Omaha and such surrounding environs as are within three miles of the territorial boundaries of the City, and are subject to the extraterritorial jurisdiction granted to the City by the Nebraska State Legislature.

H. "Cleaning Fires" shall mean the act of removing ashes from a fuel bed or furnace.

I. "Dust" shall mean solid particles released into the air by natural forces or by mechanical processes.

J. "Dust Separating Equipment" shall mean any device for separating dust from the air or gas medium in which it is carried.

K. "Emission" means a discharge or release into the ambient air of any air contaminant, or any substance which by chemical reaction may become an air contaminant.

L. "Flue" see Stack.

M. "Fly Ash" shall mean suspended particles, charred paper, dust, soot or other partially incinerated or burned matter carried in the products of combustion.

N. "Fuel" shall mean any form of combustible matter, excluding combustible refuse.

O. "Fuel Burning Equipment" shall mean any furnace steam, hot air or hot water generating equipment including duct work, stacks, chimneys, control equipment or any other device exclusive of process equipment and incinerators in which fuel is burned and in which the products of combustion do not come in direct contact with any process material or heat transfer medium.

P. "Fumes" shall mean solid particles generated by the condensation of vapors or gases that are of such character as to create an unclean, unhealthy, or an offensive condition when airborne.

Q. "Garbage" shall mean all animal and vegetable wastes and all other putrescible matter.

R. "Gas" shall mean that state of matter having neither independent shape nor independent volume but tending to expand and diffuse indefinitely.

S. "Incinerator" shall mean a combustion device specifically designed for the destruction of solid, semi-solid, liquid or gaseous combustible wastes by burning.

T. "Incinerator - Multiple Chamber" shall mean an article, machine, equipment, apparatus, structure or part thereof used to dispose of combustible refuse by burning, consisting of two or more refractory lined combustion furnaces in series or equivalent, physically separated by refractory walls, ducts, and employing adequate design parameters necessary for maximum combustion of the material to be burned.

U. "Internal Combustion Engine" shall mean any engine of 10 horsepower or larger in which the combustion of gaseous liquid or pulverized solid fuel takes place.

V. "Odor" shall mean that property of an air contaminant detectable by the sense of smell.

W. "Opacity" shall mean the degree to which transmitted light is obscured.

X. "Open Burning - Open Fire" shall mean burning under such conditions that the products of combustion are emitted directly into the ambient air and are not conducted thereto through a stack, chimney, duct or pipe.

Y. "Particulate Matter" shall mean any material except uncombined water, that exists in a finely divided form as a liquid or solid at standard conditions including fumes.

Z. "Person" shall mean any individual, partnership, association, syndicate, company, firm, trust, corporation, department, bureau, agency or any other entity recognized by law to be the subject of rights and duties.

AA. "Plume" shall mean a suspension of particles in the air or other gaseous medium or a gaseous mixture visible or invisible in the form released from a specific source.

BB. "Process Weight" shall mean the total weight of all materials introduced into a source operation, including fuels, but excluding air introduced solely for the purpose of combustion.

CC. "Process Weight Rate" shall mean a rate established as follows:

1. For continuous or long run, steady state source operations, of the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

2. For cyclical or batch source operation the total process weight for a period which covers a complete operation of an integral number of cycles, divided by the hours of actual process operation during such period.

3. Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation, the one which results in the minimum value for allowable emission shall apply.

DD. "Process or Process Equipment" shall mean any action, or treatment embracing chemical, industrial, or manufacturing factors such as heat transferring furnaces, by product coke plants, core baking ovens, mixing kettles, melting crucibles, cupolas, blast furnaces, open hearth furnaces, heating and re-heating furnaces, puddling furnaces, sintering plants, Bessemer converters, electric steel furnaces, arc furnaces, ferrous and nonferrous foundries, kilns, stills, dryers roasters, smelters, and equipment used in connection therewith, and all other methods or forms of manufacturing or processing that tend to emit smoke, particulate, or gaseous matter.

EE. "Refuse" shall mean garbage, rubbish or trade wastes or any waste material containing carbon in a free or combined state other than liquids or gases.

FF. "Ringelmann Chart" shall mean the chart published and described in the U.S. Bureau of Mines Information Circular, No. 8333 or the U.S. Public Health Service Smoke Inspection Guide as described in the Federal Register, Title 42, Chapter 1, Subchapter F, Part 75.

GG. "Rubbish" shall mean all solid waste other than garbage.

HH. "Salvage Operation" shall mean any business trade, industry or other activity conducted in whole or in part for the purpose of salvaging or reclaiming any product or material.

II. "Smoke" shall mean gas-borne particles resulting from incomplete combustion, excluding water vapor.

JJ. "Soot" shall mean aggolmerated particles consisting essentially but not exclusively of carbonaceous material.

KK. "Source Operation" shall mean the last operation preceeding the emission of an air contaminant which (a) results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion fuel; and (b) is not solely an air pollution abatement operation.

LL. "Stack" shall mean any flue, pipe, duct, chimney, or opening arranged to conduct gaseous effluent to the ambient air.

MM. "Standard Conditions" shall mean a gas tenperature of 60 degrees Fahrenheit and a gas pressure of 14.7 pounds per square inch absolute (PSIA).

NN. "Trade Waste" shall mean any solid, liquid, or gaseous material or rubbish resulting from construction or the conducting of any business, trade or industry, or any demolition operation.

OO. "Unit Operation" shall mean a method wherein raw materials do or may undergo physical change, or by which raw materials may be altered into different states, such as vapor, liquid, or solid, without changing into a new substance with different chemical composition.

PP. "Unit Process" shall mean a reaction wherein raw materials do or may undergo a chemical change; where one or more raw materials are combined and are completely changed into a new substance with different chemical composition.

QQ. "Vapor" shall mean the gaseous state of liquids or solids. (Ord. 14924 § 19-11.2; as amended by Ord. 15763; September 30, 1947, Ord. 25355 § 1; November 25, 1969, and Ord. 25524 § 1; May 26, 1970).

(2.0) 45.04.030 ADMINISTRATION

The provisions of this Title as hereinafter set forth are directed primarily to the control of the emission of air contaminants into the atmosphere. In this regard, the enforcement of these provisions shall be the responsibility of the Permits and Inspections Division of the Public Safety Department of the City of Omaha, Douglas County, Nebraska, and the Superintendant of the Permits and Inspections Division shall be the control officer.

To the ultimate aim of establishing an appropriate air quality standard for the City of Omaha and its surrounding environs, the Omaha-Douglas County Health Department shall to the limit of its ability evaluate the quality of ambient air, together with the determination of the public health implications of that air quality. This may be accomplished through the operation of an air quality surveilance network and the establishment staffing and operation of an air quality laboratory. To the end, that these air quality standards, when established, may be brought into compliance by the enforcement of adequate emission control provisions, it shall be the responsibility of the Omaha-Douglas County Health Department to recommend appropriate emission control standards to achieve the ultimate goal of producing an appropriate air quality standard for the City of Omaha. (Ord. 14924 § 19-11.3; as amended by Ord. 15763 September 30, 1947, Ord 25355 § 19-11.3; as amended by Ord. 15763; September 30, 1947, Ord. 25355 § 1; November 25, 1969, and Ord. 25524 § 1; May 26, 1970).

(3.0) 45.04.040 REGISTRATION OF EXISTING AIR CONTAMINANT SOURCES

Any person operating an existing air contaminant source shall register such source with the Superintendent of the Permits and Inspections Division of the Public Safety Department as hereinafter provided and shall on or before September 30, 1970, obtain a certificate of approval of the operation of such existing air contaminant source as hereinafter provided. (Ord. 14924 § 19-11.5; as amended by Ord. 15763; September 30, 1947, Ord. 25355 § 1; November 25, 1969, and Ord. 25524 § 1; May 26, 1970).

(3.0) 45.04.050 REGISTRATION OF NEW AIR CONTAMINANT SOURCES

Any person intending to discharge an air contaminant into the atmosphere, or any person intending to increase an existing air contaminant discharge or any person intending to build, rebuild, alter, or add to any device or system which is capable of discharging air contaminants into the atmosphere shall, before starting such construction, submit a written registration to the Superintendent of the Permits and Inspection describing the air contaminant source and/or control device which is proposed and the steps which will be given to protect the atmosphere of the City against new pollution or an increase in existing pollution. (Ord. 14924 § 19-11.6; as amended by Ord. 15763; September 30, 1947, Ord. 25355 § 1; November 25, 1969 and Ord. 25524 § 1; May 26, 1970).

(3.0) 45.04.060 SIGNATURE REQUIRED - GUARANTEE

All registrations as required herein shall be signed by the applicant or owner and, when required by the Superintendent of Permits and Inspection shall be certified by a registered professional engineer as to the accuracy of the technical information concerning the equipment and/or control device contained in the registration.

The signature of the applicant or owner, or his agent, shall constitute an agreement that the signer shall assume responsibility for capability of such equipment and/or control device to comply with the provisions of this Title when such device is in operation. (Ord. § 1; 19-11.7; as amended by Ord. 15763; September 30, 1947, Ord. 25355 § 1; November 25, 1969, and Ord. 25524 § 1; May 26, 1970).

(2.0) 45.04.070 INFORMATION REQUIRED

All registrations shall contain the following information:

A. a brief statement describing the air contaminant source and/or control device.

B. a statement giving the location of the property where the air contaminant source is or shall be located. This statement shall be accompanied by a plan showing the exact location of the point of discharge, its relationship to the property lines, and the location of the nearest business or dwelling.

C. plans and specifications for the proposed air contaminant source and/or control device.

D. a statement identifying the air contaminants which are or will be discharged into the atmosphere and including:

   1. the expected mass emission rate of the contaminants.

   2. the total gas volume, its temperature and exit velocity.

   3. the frequency of the discharge.

E. a description of the air contaminant control system which will be installed and used for such system as contemplated and including:

   1. the expected efficiency of the control system.

   2. the size, shape, and cross sectional area of the stack or vent at its point of discharge and its materials of construction.

   3. the height above ground level of the stack, vent, or point where the air contaminants are discharged into the atmosphere.

   4. the roof height of the structure or building above ground level if the stack, vent or point of discharge rests on or is supported by the structure or building.

5. the means of disposal of the contaminants when they are collected by the control system.

F. Such other pertinent information as may be necessary for a proper understanding of the proposal which is being made.

G. Nothing herein contained, shall require any person to disclose confidential information relating to secret processes, raw materials used, or economics of the operation.

H. The Superintendent of Permits and Inspection may waive or modify the registration requirements as herein described when it can be shown to his satisfaction that the new air contaminant source and/or control device will be of minor significance. Any such waiver shall be issued in writing, and signed by the Superintendent of Permits and Inspection.

I. The relocation, construction or modification of an air contaminant source and/or control device which is initiated prior to the issuance of a certificate of approval as hereinafter provided for is done at the owner's risk and does not relieve him from complying with such conditions as may be required by the Superintendent of the Permits and Inspection Division.

J. Under no circumstances may the operation of any new air contaminant source and/or control device subject to these regulations commence prior to obtaining a certificate of approval as hereinafter described. (Ord. 14924 § 19-11. 8; as amended by Ord. 15763; September 30, 1947, Ord. 25355 § 1; November 25, 1969, and Ord. 25524 § 1; May 26, 1970).

(3.0) 45.04.080 CERTIFICATE OF APPROVAL—REQUIRED

A. The Superintendent of the Permits and Inspections Division shall consider the registration within thirty (30) days of the receipt of all of the required information, and upon payment of a fee in the amount of Ten Dollars ($10.00). If the registration is approved, he shall issue a certificate of approval. If the registration is denied, he shall state the reasons for denial in writing.

A certificate of approval shall not be required for maintenance, minor repair, or replacement in kind of existing equipment.

B. Air contaminant sources and/or control devices which have been approved by the Superintendent of the Permits and Inspection Division shall be subject to continued review. He may, from time to time, require additional control measures to be installed in order to meet changing conditions. Failure to install such additional control devices within the time specified shall constitute a violation of this Section, and any existing certificate of approval may be voided.

C. Certificates of approval are not transferable from equipment to equipment or from location to location. Upon sale, the execution of a contract of sale, or any other means of transfer of ownership, the existing certificate of approval shall continue in effect for a period of six (6) months. Within this six month period, the new owner of the air contaminant source shall apply to the Superintendent of Permits and Inspection in writing for renewal of the existing certificate of approval.

D. The continued operation of any air contaminant source and/or control device when the certificate of approval has been voided shall be in violation of this Title, and shall be punishable as hereinafter set forth. (Ord. 14924 § 19-11. 9; as amended by Ord. 15763; September 30, 1947, Ord. 25355 § 1; November 25, 1969, and Ord. 25524 § 1; May 26, 1970).

(2.0) 45.04.090 EXCEPTIONS

The provisions of the foregoing Sections shall apply to all air contaminant sources within the City of Omaha except the following:

A. Residential heating equipment with a maximum heat input or less than 500,000 BTU's per hour.

B. Residential ventilating systems. (Ord. 14924 § 19-11. 10; as amended by Ord. 15763; September 30, 1947, Ord. 25355 § 1; November 25, 1969, and Ord. 25524 § 1; May 26, 1970).

(9.0) 45.04.100 INSPECTIONS

The control officer may, upon reasonable notice, enter and inspect any facilities constituting any air contaminant source located on any premises, at any reasonable time for the purpose of ascertaining the state of compliance with the regulations made part of this Title and making tests and samples as provided for herein. No person shall refuse entry or access to the control officer, nor shall any person obstruct, hamper or interfere with any inspection or unreasonably interfere with such tests or sampling. Upon request, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status as a result of such tests and sampling. (Ord. 25524 § 1; May 26, 1970).

(9.0) 45.04.110 SAMPLING AND TESTING

A. General Provisions. The control officer is hereby authorized to conduct or cause to be conducted any test or sampling of the operation of any equipment which, in his opinion, may result in emissions in violation of any regulation in effect hereunder.

Any test or sampling may be conducted by any method, other than the particular method as may be specified in any regulation hereunder, provided such substitute method is technically equivalent or mutually agreed to in writing by the control officer and the operator of the air contaminant source involved. All tests shall be conducted by reputable, qualified personnel. Upon request of the control officer, the person responsible for the source to be tested shall provide necessary test ports in stacks or ducts and such other safe and proper facilities, exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants, and shall co-operate with the control officer so as to permit such tests to be made, provided that such tests shall not unreasonably interfere with normal operations of the plant. Both the control officer and the operator of the equipment tested may be present at the test and each shall be entitled to a copy of the test results, in writing, and signed by the person responsible for the tests.

If the control officer shall require any more than one test of any air contaminant source in any twenty-for (24) month period, and the results of such test fail to disclose that the operation of the equipment so tested is in violation of the provisions of the Code, then the City shall pay all costs and expenses of the test.

B. Test by Operator. Upon notification by the control officer to the operator of any air contaminant source that emission tests are considered necessary, such person may elect to conduct such tests and sampling, in which event such person shall notify the control officer of such election and of the time and date such person proposes to conduct such tests and sampling, in which case such person shall pay all costs and expenses incurred in making such test or taking such sample. In any such test conducted by such person, the control officer may require that his duly authorized representative be present during the conduct of such tests and the taking of such samples.

C. Testing by control officer. Tests or samplings made by the operator shall not prohibit the control officer, if he so elects, from making independent tests or samplings. In either event, the control officer and the person who is the operator of such equipment shall be entitled to a complete detailed report of all tests and sampling. (Ord. 25524 § 1; May 26, 1970).

(6.0)
(15.0)

45.04.120 ABATEMENT AND COMPLIANCE

A. Issuance of Orders. Whenever the control officer determines that the terms of conditions of this Code have been violated, he may order that the violation be abated within a reasonable time to be prescribed by him; such order to be served by registered mail.

B. Schedule of Compliance. Any person owning or responsible for the operation of any existing installation not in compliance on the effective date of this Code shall submit to the control officer in a form and manner satisfactory to him, a program and schedule for achieving compliance, such will be attained, and such other information as the control officer may require. If approved by the control officer, such date will be the date on which the person shall comply.

C. Extensions for Compliance. In the event the control officer determines that:

1. The person is taking all reasonable actions available to him to comply with the time limitations, but such compliance is not possible;

2. The delay is caused by conditions beyond the jurisdiction and control of such person; or

3. The imposition of the time limitation will cause an undue hardship;

then the control officer may grant such additional extensions of time as are necessary under the criterion set forth above. (Ord. 25524 § 1; May 26, 1970).

(2.0) 45.04.130 AIR QUALITY CONTROL BOARD OF VARIANCES AND APPEALS

There is hereby created a Board to be known as the Air Quality Control Board of Variances and Appeals. This Board shall consist of seven (7) members. One member shall be a registered professional engineer, two members shall be selected from the medical profession or related fields, two members shall be representatives of industry and two members shall be general representatives of the residents of the City of Omaha. Three members shall initially be appointed for a term of one (1) year. Four members shall initially be appointed for a term of two (2) years, and all members shall thereafter be appointed for a two (2) year term.

The members of the Board shall be appointed by the Mayor upon the recommendation of the Superintendent of the Permits and Inspections Division and confirmed by the City Council. Vacancies shall be filled for any unexpired term in the manner in which the original appointments are made. Repeated absences, or failure of attendance of any three (3) consecutive meetings by any member shall render such member liable to immediate removal as a member of the Board at the discretion of the Mayor. Board members shall receive fifteen dollars for every meeting attended.

The Board may adopt and enforce with respect to its duties such reasonable rules and regulations as may be necessary and proper for performance of its work. Five (5) members of the Board shall constitute a quorum.

The Board shall conduct hearings on appeals from actions and orders of the Superintendent of Permits and Inspections Division and upon all petitions for variance.

The Board may affirm, modify, or rescind any action of the Superintendent of the Permits and Inspections Division if it finds that there is error in the order or decision; it may grant, modify, rescind, deny or approve petitions for variance. All such actions shall be by the affirmative vote of the majority of the members present at any such meeting.

Any decision of the Board rendered pursuant to this Section shall be final and any appeal therefrom shall be to the District Court of Douglas County, Nebraska. (Ord. 14924 § 19-11.11; as amended by Ord. 15763; September 30, 1947, Ord. 25355 § 1; November 25, 1969, and Ord. 25524 § 1; May 26, 1970).

(2.0) 45.04.140 RIGHT OF APPEAL.

Any person aggrieved by any order of the Superintendent of the Permits and Inspections Division may file an appeal in writing with the Superintendent of the Permits and Inspections Division within ten days of the date of such decision and it shall be the responsibility of the Superintendent of the Permits and Inspections Division to see that such appeal when properly filed and accompanied by a ten dollar ($10.00) fee is forthwith transmitted to the Chairman of the Air Quality Control Board of Variances and Appeals and that said appeal is docketed for hearing by said Board within a period of 30 days from and after its receipt. (Ord. 14924 § 19-11.12; as amended by Ord. 15763; September 30, 1947, Ord. 25355 § 1; November 25, 1969, and Ord. 25524 § 1; May 26, 1970).

(5.0) 45.04.150 VARIANCES

A. Any person who owns or is in control of any plant, building structure, process or equipment may apply to the Air Quality Control Board of Variance and Appeals if it finds that the emissions occurring or proposed to occur do not endanger or tend to endanger the human health or safety or that compliance with the rules and regulations from which variance is sought would produce extreme hardship without benefit to the public. In making such findings the Board shall give due consideration to all the facts and circumstances bearing upon the reasonableness of the emissions involved including the following:

1. The character and degree of injury to or interference with health and physical property of the people;

2. The social and economic value of the source of the air pollution;

3. The question of priority of location in the area involved;

4. The technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from such source.

B. No variance shall be granted pursuant to this Section except after public hearing on due notice and until the Board has considered the relative interests of the applicant, other owners of property likely to be affected by the emissions, and the general public.

C. Any variance or renewal thereof shall be granted within the requirements of this Section as hereinafter set forth and for time periods and under conditions consistent with the reasons therefor, and within the following limitations:

1. If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the air pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available, and subject to the taking of any substitute or alternate measures that the Board may prescribe;

2. If the variance is granted on the ground that compliance with the particular requirement from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a period of time, it shall be for a period not to exceed such reasonable time as, in view of the Board is requisite for the taking of the necessary measures. A variance on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable;

3. If the variance is granted on the ground that it is justified to relieve or prevent extreme hardship of a kind other than previously herein provided, it shall be for not more than one year.

D. Any variance granted pursuant to these provisions may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Board on account of the variance, no renewal thereof shall be granted, unless following public hearing on the complaint on due notice, the Board finds that renewal is justified.

No renewal shall be granted except on application therefor. Any such application shall be made at least sixty days prior to the expiration of the variance. Immediately upon receipt of an application for renewal properly filed with the Superintendent of Permits and Inspections Division, he shall transmit such application to the Board and the Board shall give public notice on such application in accordance with the rules and regulations as established by the Board.

E. A variance or renewal shall not be a right of the applicant or holder thereof but shall be in the discretion of the Board. The granting or denial of a variance or a renewal therefor shall be by final order of the Board. Any person adversely affected by such an order may obtain judicial review thereof in accordance with the provisions of the State Law. (Ord. 14924 § 19-11.13; as amended by Ord. 15763; September 30, 1947, Ord. 25355 § 1; November 25, 1969, and Ord. 25524 § 1; November 25, 1969, and Ord. 25524 § 1; May 26, 1970).

(6.0) 45.04.160 DATE OF COMPLIANCE

Unless otherwise specifically designated within the provisions of this Title, every existing source of air contaminant emission shall comply with the provisions of this Code on or before September 30, 1970. (Ord. 14924 § 19-11.14; as amended by Ord. 15763; September 30, 1947, Ord. 25355 § 1; November 25, 1969, and Ord. 25524 § 1; May 26, 1970).

(50.1.2) 45.04.170 RESTRICTION OF EMISSION OF VISIBLE AIR CONTAMINANTS

A. Restrictions Applicable to Existing Sources of Air Contaminant Emission.

No person shall discharge into the ambient air from any source of emission whatsoever any air contaminant of a shade or density equal to or darker than that designated as No. 2 on the Ringelmann Chart, or of such opacity as to obscure an observer's view to a degree equal to or greater than does an emission herein prohibited.

B. Restriction Applicable to Sources of Emission Created After June 30, 1970.

No person shall discharge into the ambient air from any source of emission whatsoever any contaminant of a shade or density equal to or darker than that designated as No. 1 on the Ringelmann Chart or of such an opacity as to obscure an observer's view to a degree equal to or greater than does an emission herein prohibited.

C. Exceptions.

1. It shall be permissible to discharge into the ambient air from any source of emission for a period or periods aggregating not more than three minutes in any sixty minutes air contaminants of a shade or density not darker than No. 2 on the Ringelmann Chart or of such opacity as to obscure an observer's view to a degree prohibited herein when starting or cleaning a fire or changing fuels, provided such exceptions shall not apply to more than three occasions in any twenty-four hour period.

2. Where the presence of uncombined water is the only reason for failure of an emission to meet the requirements of these regulations, the provisions of this Section shall not apply.

3. The provisions of this Section shall not apply to the following:

   a. Transfer of molten metals.

   b. Emissions from transfer ladles.

D. Method of Measurement. The method to be used in grading the shade or density of a visible air contaminant shall be the Ringelmann Chart, or such other method as shall be approved by the control officer to determine equivalent opacity. (Ord. 15713 § 2; September 30, 1947, as amended by Ord. 25355 § 1; November 25, 1969, and Ord. 25524 § 1; May 26, 1970).

(51.5) 45.04.180 RESTRICTION OF EMISSION OF AIR CONTAMINANTS FROM FUEL BURNING EQUIPMENT

A. No person shall cause or permit the emission of particulate matter from any fuel burning equipment, as measured in the flue, in excess of the following weights:

1. 0.60 pounds for each million B.T.U. per hour input if the equipment has a capacity rating of 10 million B.T.U. per hour or less. If the capacity rating of the fuel burning equipment is more than 10 million B.T.U. per hour, the amount of particulate matter which may be emitted for each million B.T.U. input shall decrease as the capacity rating of the fuel burning equipment increases, as follows:

   a. No more than 0.41 pounds for each million B.T.U. per hour input from equipment having a capacity rating of 5 million B.T.U. per hour.

b. no more than 0.35 pounds for each million B.T.U. per hour input from equipment having a capacity rating of 100 million B.T.U. per hour;

c. no more than 0.24 pounds for each million B.T.U. per hour input from equipment having a capacity rating of 500 million B.T.U. per hour;

d. no more than 0.21 pounds for each million B.T.U. per hour input from equipment having a capacity rating of 1,000 million B.T.U. per hour;

e. no more than 0.17 pounds for each million B.T.U. per hour input from equipment having a capacity rating of 2,500 million B.T.U. per hour;

f. no more than 0.14 pounds for each million B.T.U. per hour input from equipment having a capacity rating of 5,000 million B.T.U. per hour;

g. no more than 0.13 pounds for each million B.T.U. per hour input from equipment having a capacity rating of 7,500 million B.T.U. per hour;

h. no more than 0.12 pounds for each million B.T.U. per hour input from equipment having a capacity rating of 10,000 million B.T.U. or more.

2. The amount of particulate matter which may be emitted from fuel burning equipment having an intermediate capacity rating, shall be determined by linear interpolation.

3. If two or more fuel burning units are connected to a single stack, the total capacity rating of all fuel burning units connected to the stack shall be the capacity rating for the purpose of computing the amount of particulate matter which may be emitted. If a single fuel burning unit is manifold to two or more stacks, the capacity rating of the single fuel burning unit shall be the capacity rating for the purpose of computing the amount of particulate matter which may be emitted.

4. These regulations shall apply to all installations in which fuel is burned for the primary purpose of producing steam, hot water, or hot air, or other indirect heating of liquids, gases, or solids and, in the course of doing so the products of combustion do not come into direct contact with processed materials.

When any product or by-product of a process is burned for the same purpose or in conjunction with a fuel, the same maximum emission limitations shall apply.

5. For the purpose of these regulations, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack, or the equipment manufacturer's or designer's guaranteed maximum input, which ever is greater. The total heat input of all fuel burning units at a plant or on a premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.

6. The heat content of coal shall be determined according to ASTM method D-271-64 Laboratory Sampling and Analysis of Coke and Coal, or ASTM method D-2015-62T Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter.

7. The amount of particulate matter emitted shall be measured according to the American Society of Mechanical Engineers Power Test Codes-PTC-127 dated 1957 and entitled "Determining Dust Concentration in a Gas Stream." (Ord. 25355 § 1; November 25, 1969, as amended by Ord. 25524 § 1; May 26, 1970).

(50.1) 45.04.190 RESTRICTION OF EMISSION OF AIR CONTAMINANTS FROM INDUSTRIAL PROCESS EQUIPMENT AND INDUSTRIAL PROCESSES

A. No person shall cause or permit the emission of particulate matter into the ambient air in any one hour period from any emission source in excess of the amount allowed for the process weight allocated to such source as indicated in Appendix A.

B. Emission tests relating to this Section shall be made following the standards in American Society of Mechanical Engineers Power Test Code-PTC-27 dated 1957 and entitled "Determining Dust Concentration in a Gas Stream." (Ord. 25355 § 1; November 25, 1969, as amended by Ord. 25524 § 1; May 26, 1970).

(51.9) 45.04.200 RESTRICTION OF EMISSION OF AIR CONTAMINANTS FROM INCINERATORS

A. No person shall cause or permit the emission of particulate matter into the ambient air from any incinerator in excess of the following allowable amounts:

   1. Incinerators with a maximum refuse burning capacity of less than 200 pounds of refuse per hour shall not emit in excess of 0.3 grains of particulate matter per standard dry cubic foot of exhaust gas.

2. Incinerators with a maximum refuse burning capacity of 200 or more pounds of refuse per hour shall not emit in excess of 0.2 grains of particulate matter per standard dry cubic foot of exhaust gas.

B. No person shall operate any incinerator which does not provide that all gases, vapors, and entrained effluents when passing through the gas incineration stage shall be maintained at a temperature of not less than 1200 degrees Fahrenheit for not less than 0.3 seconds or eliminated by such other means as to produce an equivalent result.

C. For the purpose of these Sections, the burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate, or the standards as determined by Control Officer.

D. The amount of particulate matter emitted form any incinerator shall be determined according to the American Society of Mechanical Engineers Power Test Codes-PTC-27 dated 1957 and entitled "Determining Dust Concentration in a Gas Stream," or such other test as may be determined by the Control Officer.

E. In calculating the amount of particulate matter in stack gas, the loading shall be adjusted to twelve percent carbon dioxide in the stack gas. The carbon dioxide produced by burning of any liquid or gaseous auxiliary fuel in the incinerator shall be excluded from the calculation to twelve percent carbon dioxide. Emissions may be measued when the incinerator is operating at full capacity or at the load rate at which it is normally operated.

F. Existing incinerators which do not meet the requirements of this Section shall be modified or rebuilt in compliance with this Section in accordance with the following schedule:

RATED CAPACITY	DATE OF COMPLIANCE
1,000 or above lbs./hr.	June 30, 1971
500 to 999 lbs./hr.	December 31, 1971
All others	June 30, 1972

(Ord. 25355 § 1; November 25, 1969; as amended by Ord. 25524 § 1; May 26, 1970).

(51.13) 45.04.210 RESTRICTION OF EMISSION OF AIR CONTAMINANTS FROM OPEN BURNING

A. No person shall cause or permit any open burning of any refuse, salvage material, waste or trade wastes, by-products or a manufacturing process, or any other material, building or structure.

B. Exceptions. The open burning of trade wastes may be permitted when it can be shown that such open burning is necessary and in the public interest. Any person intending to engage in open burning of trade wastes shall file a written request to do so with the Superintendent of Permits and Inspections. The application shall state the following:

1. The name, address and telephone number of the person submitting the application.
2. The type of business or activity involved.
3. A description of the proposed equipment and operating practices, the type, quantity and composition and amount of trade wastes to be burned, and the expected composition and amount of air contaminants to be released to the atmosphere.
4. The schedule of burning operations.
5. The exact location where open burning will be used for disposal of trade waste.
6. Reasons why open burning is the only feasible method of disposal of trade waste and why disposal is in the public interest.

C. Fire Prevention Permit. Upon written approval of the application by the Superintendent of Permits and Inspections, the applicant may be issued a permit to open burn trade wastes within the approval of the Fire Marshall.

D. Compliance. Any person presently engaged in any business or occupation wherein he permits or causes open burning as prohibited in Section (a) hereof shall within 90 days from the effective date of this Code submit to the Superintendent of Permits and Inspections a compliance schedule as provided in Section 45.04.120 (b) and the Superintendent of Permits and Inspections shall see that such compliance is fully implemented and that the applicant is not in violation of Section (a) hereof within 90 days thereafter. (Ord. 25355 § 1; November 25, 1969, as amended by Ord. 25524 § 1; May 26, 1970).

(51.21) 45.04.220 RESTRICTION OF EMISSION OF AIR CONTAMINANTS FROM MISCELLANEOUS SOURCES

A. No person shall permit or cause the emission of particulate matter from any source whatsoever in such amounts that when airborne across the property line it may be detrimental to health, safety, or welfare.

B. No person shall cause or permit the emission of uncombined water droplets for such an opacity as to create a condition which is hazardous to health, safety, or welfare.

C. No person shall cause or permit the emission of dust or other particulate from wrecking buildings, excavations, parking lots, feed or grain mills, unloading of bulk Portland cement, crushed limestone, or any other like operation in excess of 500 micrograms of suspended particulate per cubic meter of ambient air at the property line in any 60 minute period. (Ord. 25355 § 1; November 25, 1969, as amended by Ord, 25524 § 1; May 26, 1970).

(50.6) 45.04.230 RESTRICTION OF EMISSION OF OBJECTIONABLE ODORS INTO THE AMBIENT AIR

A. No person shall cause or permit the emission of any objectionable odorous matter into the ambient air in such amounts as to be detectible by the standards set out hereinafter.

B. For the purpose of this section, an odor will be deemed to be objectionable when the source of the odor has been classified as a producer of objectionable odors as designated in Appendix B.

C. An odor will be deemed to be objectionable when there are complaints from a substantial number of people objecting to an emission source not already designated.

D. An objectionable odor will be deemed to be detectable when it has been substantiated by an air quality control inspector. This officer shall consider the complaint valid when odor is detectable,

1. on or adjacent to residential, recreational, or institutional, retail sales, hotel or recreational premises, after ambient air is diluted with four (4) volumes of odor-free air.

2. on or adjacent to industrial premises, after ambient air is diluted with twenty (20) volumes of odor-free air.

3. on or adjacent to premiese other than those hereinbefore designated after ambient air is diluted with eight (8) volumes of odor-free air.

E. The sampling of ambient air to establish that an objectionable odor exists shall be at or beyond the property line of the emission source or at or near a location of human habitation.

F. For field measurements, dilution methods for determining odor concentrations shall be in accordance with test procedures employed in the use of the Barnebey-Cheney Scentometer Model 1-3 or its equivalent.

G. In the event that there is a dispute as to the existence of an objectionable odor, the Superintendent of the Permits and Inspections Division may resolve such dispute by applying the Mills Adaptation of ASTM D-1391-57. The results of this test shall be deemed to be conclusive.

H. In the event that the emission of more than one person is contributing to a particular objectionable odor, abatement shall be deemed effective when the odor concentration from each person is not more than One Hundred Twenty (120) odor units per cubic foot measured at the point of emission. (Ord. 25355 § 1; November 25, 1969, as amended by Ord. 25524 § 1; May 26, 1970).

(51.9) 45.04.240 RESIDENTIAL EXEMPTIONS
(51.13)

A. Residential Incinerators. The provisions of this title relating to incinerators shall not be applicable to existing incinerators situated on residential premises and used exclusively to dispose of the rubbish originating on the same premises; provided that the total number of dwelling units on said premises shall not exceed three (3) until December 31, 1974. From and after the effective date of this Code, all new incinerators situated on residential premises as hereinbefore designated shall be installed only after application for a permit for such installation has been made to the Superintendent of the Permits and Inspections Division shall issue a permit for installation of a residential incinerator only after receipt of a manufacturer's certificate of compliance, or other evidence which in his discretion shall be sufficient to certify that the proposed incinerator shall perform in compliance with the provisions of this Code. The permit fee for all such installation permits shall be Five Dollars ($5.00).

B. Residential Open Burning. The provisions of this Title regulating open burning shall not apply to open burning on residential premises where such open burning is used exclusively to dispose of rubbish originating on the same premises and provided that the total number of dwelling units on the premises shall not exceed three until May 31, 1972. (Ord. 25355 § 1; November 25, 1969, as amended by Ord. 25524 § 1; May 26, 1970).

(8.0) 45.04.250 EMERGENCY CONDITION

If the control officer after investigation finds, or has cause to believe that a generalized or specific condition of air pollution exists in any area of the City and that, in his opinion, such condition creates an emergency requiring immediate action to protect human health or safety in such areas, he may, with the written approval of the Mayor or acting mayor, issue such order or orders to persons causing or contributing to such condition of air pollution to reduce or discontinue immediately the emission of such air contaminants into the ambient air. Upon receipt of any such order, the persons to whom it is directed shall immediately comply with such order. (Ord. 25524 § 1; May 26, 1970).

(16.0) 45.04.260 PENALTIES

Any person violating any of the provisions of this Title shall upon conviction thereof be fined in any sum not to exceed Five Hundred Dollars ($500.00) or be sentenced to be imprisioned not to exceed six (6) months in the County Jail, or any combination of such fine and imprisonment in the discretion of the Court, and each continuing day of violation shall be deemed to constitute a separate offense. (Ord. 25355 § 1; November 25, 1969, as amended by Ord. 25524 § 1; May 26, 1970).

(2.0) 45.04.270 SEVERABILITY

If any section, clause, provision or part or portion or any section, clause, provision of this Title or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or application of any other section, clause, provision or part or portion of this Title. (Ord. 25355 § 1; November 25, 1969, as amended by Ord. 25524 § 1; May 26, 1970).

APPENDIX A

Process Weight Rate		Rate of Emission	Process Weight Rate		Rate of Emission
Lb/Hr	Tons/Hr	Lb/Hr	Lb/Hr	Tons/Hr	Lb/Hr
100	0.05	0.551	16,000	8.00	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.00	19.2
600	0.30	1.83	30,000	15.00	25.2
800	0.40	2.22	40,000	20.00	30.5
1,000	0.50	2.58	50,000	25.00	35.4
1,500	0.75	3.38	60,000	30.00	40.0
2,000	1.00	4.10	70,000	35.00	41.3
2,500	1.25	4.76	80,000	40.00	42.5
3,000	1.50	5.38	90,000	45.00	43.6
3,500	1.75	5.96	100,000	50.00	44.6
4,000	2.00	6.52	120,000	60.00	46.3
5,000	2.50	7.58	140,000	70.00	47.8
6,000	3.00	8.56	160,000	80.00	49.0
7,000	3.50	9.49	200,000	100.00	51.2
8,000	4.00	10.4	1,000,000	500.00	69.0
9,000	4.50	11.2	2,000,000	1,000.00	77.6
10,000	5.00	12.0	6,000,000	3,000.00	92.7
12,000	6.00	13.6			

Interpolation of the data in this table for process weight rates up to 60,000 lb/hr shall be accomplished by use of the equation $E = 4.10\ P^{0.67}$, and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr shall be accomplished by use of the equation, $E = 55.0\ P^{0.11} - 40$, where E = rate of emission in lb/hr and P = process weight rate in tons/hr.

APPENDIX B

Detectable Odors emitted from the following sources of emission are hereby declared to be objectionable:

A. Ammonia, bleaching powder or chlorine manufacture.
B. Asphalt manufacture or refining.
C. Blood Processing.
D. Bag cleaning.
E. Celluloid manufacture.
F. Coal tar products manufacture.
G. Compost heaps.
H. Crematory.
I. Creosote treatment or manufacture.
J. Disinfectants manufacture.
K. Distillation of bones, coal or wood.
L. Dyestuff manufacture.
M. Fat rendering.
N. Fertilizer manufacture and bone grinding.
O. Glue, size or gelatine manufacture.
P. Incinerator or reduction of garbage, dead animals, offal or refuse.
Q. Oiled rubber or leather goods manufacture.
R. Paint, oil, shellac, turpentine or varnish manufacture.
S. Paper and pulp manufacture.
T. Rubber or gutta percha manufacture.
U. Sauerkraut manufacture.
V. Shoe-blackening manufacture.
W. Soap manufacture.
X. Stock yards.
Y. Sulphuric, nitric or hydrochloric acid manufacture.
Z. Tanning, curing or storage of rawhides or skins.
AA. Tar distillation or manufacture.
BB. Tar roofing or waterproofing manufacture.

AIR POLLUTION CONTROL ORDINANCE

NO. 9160

CITY OF LINCOLN, NEBRASKA

(2.0) Section 1. PURPOSE

This ordinance is designed to control air pollution (defined in Section 2) by establishing standards of emission, declaring emissions which do not meet such standards to be unlawful and a public nuisance, empowering investigation and abatement of violations of this ordinance by the City's air pollution control officer, establishing the office and prescribing the duties of the air pollution control officer, prescribing penalties for the violation of this ordinance, and providing just and adequate means by which the provisions of this ordinance may be executed.

(1.0) Section 2. DEFINITIONS

The following definitions cover the intended use of these words in this ordinance.

a. Air Contaminant

This term includes but is not limited to particulate matter, dust, fly ash, fume, gas, mist, odor, smoke, vapor, pollen, radioactive material, ionizing radiation, any combination thereof, or any decay or reaction product thereof.

b. Air Pollution

One or more air contaminants or combinations thereof present in the atmosphere in such quantities and of such duration, which are or may tend to be injurious to human, plant, or animal life, or property, or which interfere with the normal enjoyment of life or property, or the conduct of business.

c. Air Pollution Control Officer

Air pollution control officer shall mean the Health Director of the Lincoln-Lancaster County Health Department or his duly authorized representative.

d. Control Equipment

Any equipment that has the function to prevent the formation of or the emission to the atmosphere of air contaminants from any fuel burning, incinerator or process equipment.

e. Emission

The act of passing into the outdoor atmosphere an air contaminant or contaminants, or the material so passed to the outdoor atmosphere.

f. Fuel-burning Equipment

Any equipment such as furnace, steam, hot-air or hot-water generating equipment, including ductwork, stacks, chimneys, control equipment, or any other device, exclusive of process equipment and incinerators, in which fuel or other combustible material is burned and in which the products of combustion do not come in direct contact with any process material or heat transfer medium. This definition does not include equipment defined in this ordinance as "process equipment," and incinerators.

g. Open Burning

Any fire from which the products of combustion are emitted directly into the outdoor atmosphere without passing through a stack or chimney.

h. Particulate Matter

Any material except uncombined water which exists as a liquid or solid at 68 degrees Fahrenheit and 14.7 pounds per square inch absolute pressure.

i. Person

Any individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, department, bureau, agency, or any other entity recognized by law as the subject of rights and duties.

j. Process Equipment

Any equipmnet, device or contrivance for changing any materials whatever or for storage or handling of any materials, the use or existence of which may cause any discharge of air contamimants into the outdoor atmosphere but not including the equipment specifically defined as "fuel burning equipment" or "control equipment" in this ordinance.

k. Process Weight

The total amount of all material introduced into an industrial operation, including solid fuels, but excluding liquid fuels and gaseous fuels when these are used as fuels and are introduced for purposes of combustion.

l. Process Weight Per Hour

For continuous or long-term operation: The total process weight for the entire period of operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof. For batch operation: The total process weight for a period, which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such period.

m. Refuse

The term "refuse" shall be construed to mean and include garbage, rubbish, ashes, street refuse, dead animals, vehicles and parts thereof, industrial wastes, construction wastes, sewage treatment residue, and any other waste matter or material, except leaves and grass, which accumulates in the conduct of a household, business establishment, shop or factory of any kind or nature, and any other combustible waste material containing carbon in a free or combined state.

n. Registration

The notification of the air pollution control officer in the manner specified by the air pollution control officer, of the installation, alteration or existence of fuel-burning, process, incinerators, or control equipment.

o. Salvage Operation

Any operation conducted in whole or in part for the salvaging or reclaiming of any product or material.

p. Stack or Chimney

A flue, conduit, or opening arranged for emitting any air contaminant into the outdoor atmosphere 20 feet or more above ground level.

q. Incinerator

Any article, machine, equipment, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning, consisting of one or more combustion chambers.

r. Multiple Chamber Incinerator

Any article, machine, equipment, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning, consisting of two or more refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned. The refractories shall have a Pyrometric Cone Equivalent of 31, tested according to the method described in the American Society for Testing Materials, Method C-24-56.

s. Burning Capacity of Incinerator

The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate expressed in pounds or tons of refuse per hour, or in the absence of this data, such other rate as may be determined by the air pollution control officer in accordance with good engineering practice.

t. Adoption by Reference

Three copies of all publications adopted by reference herein have been filed with the City Clerk.

(2.0) Section 3. ADMINISTRATIVE ORGANIZATION

a. The air pollution control officer is charged with the duty of investigating, preventing, and abating causes of air pollution and enforcing the provisions of this ordinance.

The air pollution control officer shall have the power and duty to:

1. Make such inspections and such tests as he deems necessary to determine whether the provisions of this ordinance are being complied with; and require the submission of air contaminant emission information as needed for purposes of emission inventory and registration.

   (a) The registration and emission inventory shall be made on forms furnished by the air pollution control officer.

   (b) The air pollution control officer shall determine the equipment required to be registered, the persons to submit the registration, the information required, and the means of maintaining current status of the registration. Any information relating to secret processes, methods of manufacture or production obtained in the course of inspections or tests, or gathered with emission information shall be kept confidential.

2. Investigate all complaints of violations of this ordinance and issue notices and orders granting a reasonable time to comply with the provisions of this ordinance.

3. Institute necessary proceedings to secure abatement of violations of this ordinance.

4. Advise planning agencies regarding air-use aspects of plans and planning functions in order to prevent land-use conflicts with air quality needs and to ensure installation of suitable air pollution control equipment. Conduct studies as needed to meet this responsibility and recommend zoning regulations pertaining to air pollution control.

5. Make recommendations with respect to needed revisions in this, or any other ordinance pertaining to air pollution.

6. Encourage voluntary cooperation by persons or affected groups in preservation and restoration of the purity of air.

7. Collect and disseminate information on air pollution control.

8. Subject to the laws of the State of Nebraska and the City of Lincoln, administer grants or other funds or gifts for the purpose of carrying out any of the purposes of this ordinance.

9. Advise, consult and cooperate with federal, state and local government agencies and the officials and employees thereof and with other interested persons or groups in regard to matters of common interest in air pollution control.

The Mayor, as chief administrative officer, has the power to modify or vacate any order of the air pollution control officer.

b. The Mayor of the City of Lincoln shall appoint, with City Council approval, an advisory board of nine members, four

(4) of whom shall be from industry. The air pollution control officer shall be an ex officio member of the advisory board and shall serve as Secretary to the advisory board. The City Attorney or one of his staff, and the Planning Director, or one of his staff, shall serve as ex officio members of the advisory board. The members of the board shall serve for a period of four years on staggered terms, with members being appointed every two years; provided, however, that of the first nine appointed members, four shall be appointed for a two year term. Appointments to fill a vacancy on the board shall be for the unexpired term of the member whose vacancy is being filled. The advisory board shall meet annually and in addition, shall meet at the call of the Mayor or upon a written request signed by five of its members and filed with the secretary of the board. Annually, the board shall organize itself by the election from its membership of a president and a vice-president. The advisory board shall advise the Mayor and City Council with respect to needed revision in this or any other ordinance pertaining to air pollution and on matters concerning air pollution. At the annual meeting, meetings called by a request of five of the board members, and at such times as requested by the Mayor, the board shall review the program of the air pollution control officer under this ordinance and shall submit a report to the Mayor and the City Council as to their evaluation of the program. Upon request by the Mayor, the advisory board shall also study administrative decisions of the air pollution control officer, and make recommendations to the Mayor concerning such decisions.

(50.1.2) Section 4. VISIBLE EMISSION

No person shall cause, suffer, or allow to be discharged into the outdoor atmosphere from any existing source whatsoever any air contaminant

a. Equal to or darker in shade than that designated as No. 2 on the Ringelmann Smoke Chart, or

b. Of such opacity as to obscrue an observer's view to a degree equal to or greater than does black or gray smoke designated as No. 2 on the Ringelmann Smoke Chart.

No person shall cause, suffer, or allow to be discharge into the outdoor atmosphere from any source or installation constructed after the effective date of this ordinance any air contaminant

a. Equal to or darker in shade than that designated as No. 1 on the Ringelmann Smoke Chart, or

b. Of such opacity as to obscure an observer's view to a degree equal to or greater than does black or gray smoke designated as No. 1 on the Ringelmann Smoke Chart.

Opacity of visible emissions or air contaminants shall be determined by the degree of obscuration of an observer's view equivalent to that of black or gray smoke as measured by the Ringelmann Smoke Chart as published by the United States Department of the Interior, Bureau of Mines, in "Information Circular 7718" dated August, 1955,adopted as a part of this ordinance by reference, or by use of means or devices which result in measurements of equal or better accuracy.

Notwithstanding the above prohibitions:

a. Air contaminants of such opacity as to obscure an observer's view to a degree as No. 2 on the Ringelmann Smoke Chart are permitted for a period or periods aggregating three (3) minutes in any sixty (60) minutes;

b. Air contaminants of such opacity as to obscure an observer's view to a degree equal to but not greater than black smoke designated as No. 3 on the Ringelmann Smoke Chart may be permitted for a period not greater than three (3) minutes in any sixty (60) minute period when starting or cleaning a fire, provided such emission shall not be permitted on more than three occasions during any 24-hour period; and

c. If an emission of air contaminants does not meet the requirements of this section, but contains less than 0.10 pound of particulate matter per 1,000 pounds of flue gas, such emission is permitted.

The provisions of this section shall not apply to visible emissions resulting from any fire ignited for the purpose of training firemen, or for research in fire protection or prevention, nor to visible emissions resulting from an unavoidable breakdown or malfuction of equipment, nor to visible emissions of uncombined water droplets. However, fires to be ignited for the purpose of training firemen, or for research in fire protection or prevention may only be ignited after consultation with the air pollution control officer and receipt of special permit in writing from him.

(51.5) Section 5. EMISSION OF PARTICULATE MATTER FROM FUEL-BURNING EQUIPMENT

No person shall cause, suffer, or allow to be emitted into the outdoor atmosphere from any fuel-burning equipment or premises, or to pass a convenient measuring point near the stack outlet, particulate matter in the gases to exceed 0.70 pound per 1,000,000 BTU heat input for installations using less than 10,000,000 BTU per hour total input. For installations using greater than 10,000,000 BTU per hour total input, Figure 1 will be used to determine the allowable particulate emission limitation.

The burning of refuse in fuel burning equipment is prohibited except in equipment from which no smoke in excess of that permitted by Section 4 and no air contaminants in excess of that permitted by Section 5 are emitted and no odorous matter in excess of that permitted by Section 10.

(50.1.1) Section 6. PARTICULATE MATTER EMISSIONS FROM INDUSTRIAL PROCESS EQUIPMENT

The maximum allowable emission of particulate matter from any source whatever except fuel burning equipment and incinerators shall be determined from Table 1. (To use the table, find the process weight rate in the table, and note the allowable rate of emissions in pounds per hour next to the process weight per hour.)

(9.0) Section 7. STACK EMISSION TEST METHOD

Stack emission tests shall be conducted in accordance with the American Society of Mechanical Engineers Test Code for Dust Separating Apparatus PTC 21-1941, and the American Society of Mechanical Engineers Test Code for Determining Dust Concentrations in Gas Streams PTC 27-1957, which are hereby fully adopted and made a part ofthis ordinance by reference.

(9.0) Section 8. TEST FACILITIES

It shall be the responsibility of the owner or operator of the operation tested to provide, at his expense, reasonable and necessary openings in the system or stack, and safe and easy access thereto, to permit technically valid samples and measurements to be taken.

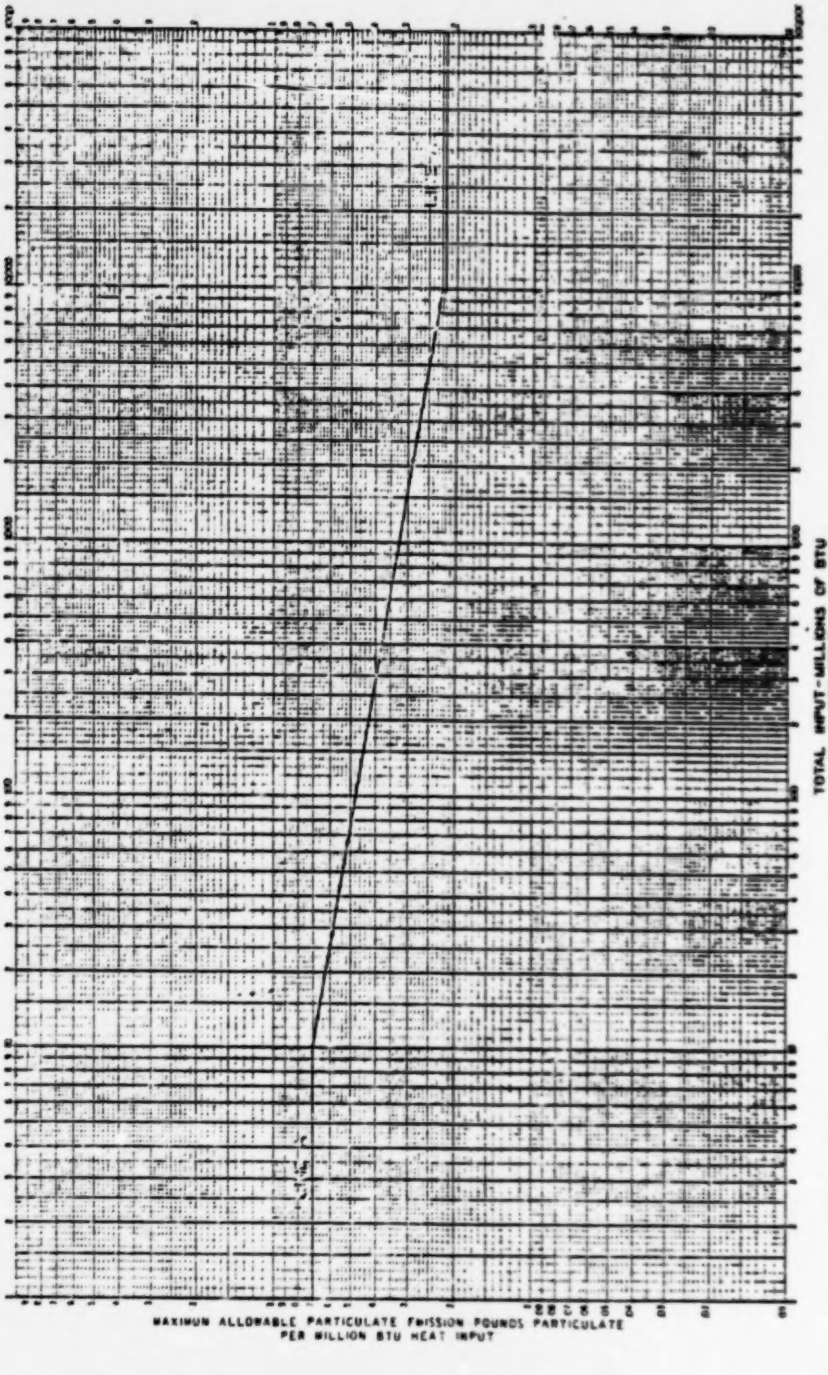
MAXIMUM ALLOWABLE PARTICULATE EMISSION POUNDS PARTICULATE PER MILLION BTU HEAT INPUT
TOTAL INPUT-MILLIONS OF BTU PER HOUR

FIGURE 1

ALLOWABLE RATE OF EMISSION

BASED ON PROCESS WEIGHT RATE

Process Weight Rate[a]		Rate of Emission[b]	Process Weight Rate[a]		Rate of Emission[b]
Lb/Hr	Tons/Hr	Lb/Hr	Lb/Hr	Tons/Hr	Lb/Hr
100	0.05	0.551	12,000	6.00	13.600
200	0.10	0.877	16,000	8.00	16.500
400	0.20	1.400	18,000	9.00	17.900
600	0.30	1.830	20,000	10.00	19.200
800	0.40	2.220	30,000	15.00	25.200
1,000	0.50	2.580	40,000	20.00	30.500
1,500	0.75	3.380	50,000	25.00	35.400
2,000	1.00	4.100	60,000	30.00	40.000
2,500	1.25	4.760	70,000	35.00	41.300
3,000	1.50	5.380	80,000	40.00	42.500
3,500	1.75	5.960	90,000	45.00	43.600
4,000	2.00	6.520	100.000	50.00	44.600
5,000	2.50	7.580	120,000	60.00	46.300
6,000	3.00	8.560	140,000	70.00	47.800
7,000	3.50	9.490	160,000	80.00	49.000
8,000	4.00	10.400	200,000	100.00	51.200
9,000	4.50	11.200	1,000,000	500.00	69.000
10,000	5.00	12.000	2,000,000	1,000.00	77.600
			6,000,000	3,000.00	92.700

[a] See Definitions (k) and (l) on page 4.

[b] Interpolation of the data in this table for process weight rates up to 60,000 lb/hr shall be accomplished by use of the equation $E = 4.10P^{0.67}$, and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr shall be accomplished by use of the equation $E = 55.0\ P^{0.11} - 40$ where E = rate of emission in lb/hr and P = process weight rate in tons/hr.

All new potential sources of air contaminants erected after the effective date of this ordinance shall at the time of construction be provided with adequate openings in the system or stack; and safe and easy access thereto, to permit technically valid samples and measurements to be taken.

(9.0) Section 9. EMISSION TEST COSTS

The air pollution control officer shall perform or have performed the stack emission tests at the City's expense, provided, however, he may accept a test conducted by the representative of the owner or operator of the installation on the condition that the person so electing to conduct his own stack emission tests shall pay for those tests irrespective of their outcome. The results of such tests conducted by the owner or operator will be accepted as proving what is being emitted from the stack or source in question only if the testing method is approved by the air pollution control officer and the test is documented to the satisfaction of the air pollution control officer.

(50.6) Section 10. EMISSION OF ODOROUS MATTER

No person shall cause, suffer, or allow to be emitted repeatedly and successively into the outdoor atmosphere odorous matter

a. On any land within the City; except those City zoning districts described as "L Heavy Industrial District," or "M Restricted Industrial District," that can be detected at a point at or beyond the lot line of the property on which the source of emission is located in such quantity that such odor can be detected when one volume of ambient air is diluted with five volumes of clean odor-free air; or

b. In those districts within the City which are zoned "L Heavy Industrial District" or "M Restricted Industrial District," that can be detected at a point at or beyond the lot line of the property on which the source of emission is located in such quantity that such odor can be detected when one volume of ambient air is diluted with ten volumes of clean odor-free air. The dilution method for determining odor concentrations shall be in accordance with test procedures employed in use of the Barnebey Cheney Scentometer, Model I-3 or its equivalent.

(51.13) Section 11. OPEN BURNING

No person shall cause, suffer, allow, or permit open burning of refuse or salvage operations without having a permit therefore issued by the air pollution control officer.

a. Application

A written application shall be filed with the air pollution control officer giving reasons why no other practicable method except open burning can be employed to dispose of the salvage operations; the amount and kind of refuse to be burned or salvage operations; the exact location where the burning will take place, including the distances to adjacent structures; and the dates or days and times when the open burning is proposed to be done. The air pollution control officer shall act upon and notify the applicant within 5 days upon receipt of the application.

b. Procedure

The air pollution control officer shall furnish the Fire Department a copy of the written application referred to in paragraph (a) above.

c. Permit

The air pollution control officer is authorized to issue a permit only if:

1. There is no other practicable method except open burning which can be employed to dispose of the refuse involved or salvage operations; and

2. The Fire Department has approved the application as meeting the City's fire safety requirements.

The air pollution control officer or the chief of the fire deparment may prohibit any or all open burning or salvage operations when atmospheric conditions or local circumstances make such fires hazardous to health, welfare or safety of persons or property, and all permits for burning shall be subject to such prohibition or concallation.

(51.9) Section 12. INCINERATORS

After the effective date of this ordinance, only multiple chamber incinerators or their equivalent shall be constructed or installed. Incinerators existing at the time of the adoption of this ordinance which are not multiple chamber incinerators or their equivalent shall be altered, modified, rebuild, or replaced as may be necessary to meet the performance requirements of this section.

No person shall cause or permit the emission of any particulate matter from the stack or chimney of any incinerator in excess of the limits according to maximum capacities as follows:

a. Incinerators with a maximum refuse burning capacity of less than 200 pounds of refuse per hour, the maximum emission rate shall be 0.3 grains of particulate matter per standard dry cubic foot of exhaust gas.

b. Incinerators with a maximum refuse burning capacity of 200 or more pounds per hour, the maximum emission rate shall be 0.2 grains of particulate matter per standard dry cubic foot of exhaust gas.

The amount of particulate matter emitted from any incinerator shall be determined or measured according to the procedures of the American Society of Mechanical Engineers "Power Test Codes - PTC 27" dated 1957 and entitled "Determining Dust Concentration in a Gas Stream." This publication is hereby made a part of this ordinance by reference. In calculating the amount of particulate matter in stack gas, the loading shall be adjusted to 12 percent carbon dioxide in the stack gas. The carbon dioxide produced by burning of any liquid or gaseous fuel in the incinerator shall be excluded from the calculation to 12 percent carbon dioxide.

No person shall operate or cause or permit the operation of any incinerator with a capacity of less than five tons per hour at any time other than between the hours of 7:00 a.m. and 7:00 p.m.

The schedule for compliance with the requirements of this section 12 is as follows:

Incinerators with a capacity of 2,000 pounds per hour or greater - - 12 months from date of adoption of this ordinance.

Incinerators with capacities between 1,000 - 1,999 pounds per hour - - 18 months from date of adoption of this ordinance.

Incinerators with capacities between 55 - 999 pounds per hour - - 24 months from date of adoption of this ordinance.

Incinerators with capacities less than 500 pounds per hour - - 30 months from date of adoption of this ordinance.

(13.0) Section 13. NUISANCE: ABATEMENT

It is unlawful for any person to permit or cause the escape of such quantities of gases or particulate matter from whatever source in such place or manner as to be detrimental to any person or to the public or to endanger the health, welfare or safety of any such person or the public, or in such manner as to cause to have a tendency to cause injury or damage to property or business. The escape of such matter is declared to be a public nuisance. Each day wherein a violation of the section occurs shall constitute a separate offense. Any act of emission of smoke, particulate matter, or odorous matter from any single source in violation or excess of the limitations established in or pursuant to sections 4, 5, 6, 10, 11, 12, or 13 of this ordinance shall be deemed and is hereby declared to be a public nuisance, and may be ordered abated by the air pollution control officer. Such abatement may be in addition to the fines and penalties herein provided.

Nothing in any other section of this ordinance relation to regulation of emission of pollutants shall in any manner be construed as authorizing or legalizing the creation or maintenance of a nuisance as described in this section of this ordinance.

(15.0) Section 14. PROCEDURE FOR ABATEMENT

If the air pollution control officer has determined by observation or tests that an act or emission from any source violates or exceeds the maximum allowable emission standards and limitations set forth in sections 4, 5, 6, 10, 11, 12, and 13 hereof, a violation notice may be issued to the owner or operator of the source in question. The violation notice shall state the violation and specify the date by which the violation shall be corrected.

Any person who is issued a violation notice may, within 10 days from the date of receipt of said notice, submit to the air pollution control officer reasons why he does not believe he was in violation of the section or sections cited. The air pollution control officer shall review the matter and within 30 days affirm or withdraw his violation notice by informing, in writing, the person receiving said notice of his decision to affirm or withdraw.

If the air pollution control officer affirms his violation notice, the person cited may within 10 days thereafter appeal the decision to the Mayor, who shall hear the case permitting all pertinent information to be presented and issue a decision within 30 days.

If the conditions causing the violation have not been rectified after the time prescribed in the violation notice of the Mayor's decision, if appealed to him, or nullified by the issuance of a variance, the air pollution control officer may institute the necessary legal proceedings in a court of competent jurisdication for the purpose of assessing penalties or obtaining an injunction, or both, to secure compliance with the provisions of this ordinance.

(16.0) Section 15. SEALING

After previous notification of three or more violations within a 12-month period, a violator shall be notified to show cause before the air pollution control officer within 10 days, why the offending equipment shall not be sealed. If upon the hearing at which time the violator may appear and be heard the officer finds that adequate corrective measures have not been taken, he may seal the equipment until such time as corrective measures are taken. The decision may be appealed to the Mayor, and such appeal shall stay the sealing. It shall be unlawful for any person, firm, or corporation to break a seal that has been duly affixed by the air pollution control officer or his authorized representative unless authorized by the air pollution control officer to do so.

(5.0) Section 16. VARIANCE

Whenever it has been adequately demonstrated to the air pollution control officer that compliance with the terms of the ordinance cannot be effectively and promptly made, the aforesaid officer shall have the authority to grant a temporary permit for a period of six months, in the name of the City of Lincoln for the continued operation of such noncomplying equipment, but only in the event that the person has given assurances in writing that he will take all necessary steps to secure compliance with this ordinance within a reasonable time. If, upon, expiration of a temporary permit, the person owning or operating such noncomplying equipment demonstrates to the satisfaction of the air pollution control officer that appropriate steps have been taken which shall secure compliance with this ordinance, a renewal of the temporary permit may be issued. In evaluating a person's application for a temporary permit, the air pollution control officer shall take into consideration:

a. Action taken to control air pollution within emission limitation in effect prior to the application;

b. efficiency of any existing control equipment relative to that which would be required to meet emission limitations of this ordinance;

c. temporary interim control measures intended to minimize existing pollution levels;

d. the effect the source of emission has on air pollution generally or in the immediate vicinity of the source;

e the degree of control in relation to other similar facilities which produce air pollution;

f. the age and prospective life of the facility in question.

In the event the owner of the equipment causing the emission and the air pollution control officer can not evolve a mutually acceptable program of improvement or the variance is refused, the matter may be appealed to the Mayor for resolution and determination of an acceptable program or refusal, which decision shall be binding upon both the owner and the air pollution control officer. In making his determination the Mayor shall also take into consideration the factors noted in (a) through (f) above.

(7.0) Section 17. BREAKDOWN OF EQUIPMENT.

Emissions exceeding any of the limits established in Sections 4, 5, 6, 10, 12, or 13 as a direct result of upset conditions in or breakdown of any air pollution control equipment or related operating equipment beyond the control of the person owning or operating such equipment shall not be deemed to be in violation of Sections 4, 5, 6, 10, 12, or 13, provided that the owner or operator advises the air pollution control officer of the circumstances and outlines a corrective program acceptable to the air pollution control officer.

(16.0) Section 18. RIGHT OF ENTRY.

Upon presentation of proper credentials issued by the Mayor, the air pollution control officer may enter at reasonable times any building, structure, or premises in the city to perform any duty (to make inspections or tests) imposed upon him by this ordinance.

PENALTY FOR REFUSAL--IMMEDIATE ENTRY NOT REQUIRED.

When the air pollution control officer is refused entry to the premises, the following procedure may be taken:

a. The mayor shall hold a hearing to determine a reasonable time or times for inspections and tests, and he shall give prior notice of the hearing to and permit appearing at the hearing by the owner or occupier of the premises or person in charge of the premises who refuses entry.

b. The Mayor, after determining a reasonable time or times, shall sign an executive order so stating the time or times. If observed emissions are erratic or intermittant and not continuous, the Mayor's order may specify the conditions which shall authorize entry without stating a specific time for the entry.

c. The air pollution control officer may make demand for entry to the premises at the time designated in the Mayor's executive order, or when the conditions specified in the Mayor's order occur, showing a copy of the Mayor's executive order.

It shall be unlawful for any owner or occupier of the premises or person in charge of the premises to deny right of entry to the air pollution control officer when demand for entry to the premises is made in accordance with the Mayor's executive order and when a copy of the Mayor's executive order is shown to the owner or occupier of the premises or person in charge of the premises.

(16.0) Section 19. PENALTY.

Any person upon whom a duty is placed by the provisions of this ordinance who shall fail, neglect or refuse to perform such duty or who shall violate any of the provisions of this ordinance, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the city jail for a period of not to exceed six (6) months or by a fine of not to exceed Five Hundred Dollars ($500.00) recoverable with costs, or both, and shall stand committed to the city jail until such fine and costs of prosecution are paid. Each day that a violation of this ordinance continues shall constitute a separate and distinct offense and shall be punishable as such.

(2.0) Section 20. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

(2.0) Section 21.

That sections 8.64.010, 8.64.020 and 8.64.030 of the Lincoln Municipal Code, as hitherto existing, and all other ordinances and parts of ordinances in conflict herewith be and they are hereby repealed.

(2.0) Section 22.

This ordinance shall take effect and be in force from and after its passage and publication according to law.

FEDERALLY PROMULGATED REGULATIONS

(50.1.2) 52.1429 SOURCE SURVEILLANCE: REGULATION FOR CONTROL OF VISIBLE EMISSIONS.

Regulation for control of visible emissions.

(1) Except as provided under paragraph (g)(2) of this section, no owner or operator of any process source subject to the provisions of § 52.1432 (b) shall emit or cause the emission of air pollutants of a shade or density equal to or darker than that designated as No. 1 of the Ringelmann Chart or 20-percent opacity.

(2) An owner or operator subject to subparagraph (1) of this paragraph may emit or cause the emission of air pollutants or a shade or sensity not darker than that designated as No. 3 on the Ringelmann Chart or 60-percent opacity for a period or periods aggregating not more than 3 minutes in any 60 minutes.

(3) Compliance with this paragraph shall be in accordance with this provisions of § 52.1425 (b)(4).

(4) The procedures used to determine compliance with this paragraph are prescribed in method 9 in the appendix to part 60 of this chapter.

(17.0) 52.1436 Prevention of Significant Deterioration

(b) Definitions. For the purposes of this section:

(1) "Facility" means an identifiable piece of process equipment. A stationary source is composed of one or more pollutant-emitting facilities.

(2) The phrase "Administrator" means the Administrator of the Environmental Protection Agency or his designated representative.

(3) The phrase "Federal Land Manager" means the head, or his designated representative, of any Department or Agency of the Federal Government which administers federally-owned land, including public domain lands.

(4) The phrase "Indian Reservation" means any federally-recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(5) The phrase "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(6) "Construction" means fabrication, erection or installation of a stationary source.

(7) "Commenced" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(c) Area designation and deterioration increment

(1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the provisions shall also be applicable to all lands owned by the Federal Government and Indian Reservations located in such State. The provisions of this paragraph do not apply in those counties or other functionally equivalent areas that pervasively exceeded any national ambient air quality standards during 1974 for sulfur dioxide or particulate matter and then only with respect to such pollutants. States may notify the Administrator at any time of those areas which exceeded the national standards during 1974 and therefore are exempt from the requirements of this paragraph.

(2) (i) For purposes of this paragraph, areas designated as Class I or II shall be limited to the following increases in pollutant concentration occurring since January 1, 1975:

Area Designations

Pollutant	Class I (ug/m^3)	Class II (ug/m^3)
Particulate matter:		
Annual geometric mean	5	10
24-hr maximum	10	30
Sulfur dioxide:		
Annual arithmetic mean	2	15
24-hr maximum	5	100
3-hr maximum	25	700

(ii) For purposes of this paragraph, areas designated as Class III shall be limited to concentrations of particulate matter and sulfur dioxide no greater than the national ambient air quality standards.

(iii) The air quality impact of sources granted approval to construct or modify prior to January 1, 1975 (pursuant to the approved new source review procedures in the plan) but not yet operating prior to January 1, 1975, shall not be counted against the air quality increments specified in paragraph (c) (2) (i) of this section.

(3) (i) All areas are designated Class II as of the effective date of this paragraph. Redesignation may be proposed by the respective States, Federal Land Manager, or Indian Governing Bodies, as provided below, subject to approval by the Administrator.

(ii) The State may submit to the Administrator a proposal to redesignate areas of the State Class I, Class II, or Class III, provided that:

(a) At least one public hearing is held in or near the area affected and this public hearing is held in accordance with procedures established in 51.4 of this chapter, and

(b) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation are notified at least 30 days prior to the public hearing, and

(c) A discussion of the reasons for the proposed redesignation is available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contains appropriate notification of the availability of such discussion, and

(d) The proposed redesignation is based on the record of the State's hearing, which must reflect the basis for the proposed redesignation, including consideration of (1) growth anticipated in the area, (2) the social, environmental, and economic effects of such redesignation upon the area being proposed for redesignation and upon other areas and States, and (3) any impacts of such proposed redesignation upon regional or national interests.

(e) The redesignation is proposed after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

(iii) Except as provided in paragraph (c) (3) (iv) of this section, a State in which lands owned by the Federal Government are located may submit to the Administrator a proposal to redesignate such lands Class I, Class II, or Class III in accordance with subdivision (ii) of this subparagraph provided that:

(a) The redesignation is consistent with adjacent State and privately owned land, and

(b) Such redesignation is proposed after consultation with the Federal Land Manager.

(iv) Notwithstanding subdivision (iii) of this subparagraph, the Federal Land Manager may submit to the Administrator a proposal to redesignate any Federal lands to a more restrictive designation than would otherwise be applicable provided that:

(a) The Federal Land Manager follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Federal Land is located or which border the Federal Land.

(v) Nothing in this section is intended to convey authority to the States over Indian Reservations where States have not assumed such authority under other laws nor is it intended to deny jurisdiction which States have assumed under other laws. Where a State has not assumed jurisdiction over an Indian Reservation the appropriate Indian Governing Body may submit to the Administrator a proposal to redesignate areas Class I, Class II, or Class III, provided that:

(a) The Indian Governing Body follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located or which border the Indian Reservation and, for those lands held in trust, with the approval of the Secretary of the Interior.

(vi) The Administrator shall approve, within 90 days, any redesignation proposed pursuant to this subparagraph as follows:

(a) Any redesignation proposed pursuant to subdivisions (ii) and (iii) of this subparagraph shall be approved unless the Administrator determines (1) that the requirements of subdivisions (ii) and (iii) of this subparagraph have not been complied with, (2) that the State has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph, or (3) that the State has not requested and received delegation of responsibility for carrying out the new source review requirements of paragraphs (d) and (e) of this section.

(b) Any redesignation proposed pursuant to subdivision (iv) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (iv) of this subparagraph have not been complied with, or (2) that the Federal Land Manager has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(c) Any redesignation submitted pursuant to subdivision (v) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (v) of this subparagraph have not been complied with, or (2) that the Indian Governing Body has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(d) Any redesignation proposed pursuant to this paragraph shall be approved only after the Administrator has solicited written comments from affected Federal agencies and Indian Governing Bodies and from the public on the proposal.

(e) Any proposed redesignation protested to the proposing State, Indian Governing Body, or Federal Land Manager and to the Administrator by another State or Indian Governing Body because of the effects upon such protesting State or Indian Reservation shall be approved by the Administrator only if he determines that in his judgment the redesignation appropriately balances considerations of growth anticipated in the area proposed to be redesignated; the social, environmental and economic effects of such redesignation upon the area being redesignated and upon other areas and States; and any impacts upon regional or national interests.

(f) The requirements of paragraph (c) (3) (vi) (a) (3) that a State request and receive delegation of the new source review requirements of this section as a condition to approval of a proposed redesignation, shall include as a minimum receiving the administrative and technical functions of the new source review. The Administrator will carry out any required enforcement action in cases where the State does not have adequate legal authority to initiate such actions. The Administrator may waive the requirements of paragraph (c) (3) (vi) (a) (3) if the State Attorney-General has determined that the State cannot accept delegation of the administrative/technical functions.

(vii) If the Administrator disapproves any proposed area designation under this subparagraph, the State, Federal Land Manager or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the Administrator or reconsidering any area designation determined by the Administrator to be arbitrary and capricious.

(d) Review of new sources

(1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the requirements of this paragraph apply to any new or modified stationary source of the type identified below which has not commenced construction or modification prior to June 1, 1975 except as specifically provided below. A

source which is modified, but does not increase the amount of sulfur oxides or particulate matter emitted, or is modified to utilize an alternative fuel, or higher sulfur content fuel, shall not be subject to this paragraph.

(i) Fossil-Fuel Steam Electric Plants of more than 1000 million B.T.U. per hour heat input.

(ii) Coal Cleaning Plants.

(iii) Kraft Pulp Mills.

(iv) Portland Cement Plants.

(v) Primary Zinc Smelters.

(vi) Iron and Steel Mills.

(vii) Primary Aluminum Ore Reduction Plants.

(viii) Primary Copper Smelters.

(ix) Municipal Incinerators capable of charging more than 250 tons of refuse per 24 hour day.

(x) Sulfuric Acid Plants.

(xi) Petroleum Refineries.

(xii) Lime Plants.

(xiii) Phosphate Rock Processing Plants.

(xiv) By-Product Coke Oven Batteries.

(xv) Sulfur Recovery Plants.

(xvi) Carbon Black Plants (furnace process).

(xvii) Primary Lead Smelters.

(xviii) Fuel Conversion Plants.

(xix) Ferroalloy production facilities commencing construction after October 5, 1975.

(2) No owner or operator shall commence construction or modification of a source subject to this paragraph unless the Administrator determines that, on the basis of information submitted pursuant to subparagraph (3) of this paragraph:

(i) The effect on air quality concentration of the source or modified source, in conjunction with the effects of growth and reduction in emissions after January 1, 1975, of other sources in the area affected by the proposed source, will not violate the air quality increments applicable in the area where the source will be located nor the air quality increments applicable in any other areas. The analysis of emissions growth and reduction after January 1, 1975, of other sources in the areas affected by the proposed source shall include all new and modified sources granted approval to construct pursuant to this paragraph; reduction in emissions from existing sources which contributed to air quality during all or part of 1974; and general commercial, residential, industrial, and other sources of emissions growth not exempted by paragraph (c) (2) (111) of this section which has occurred since January 1, 1975.

(ii) The new or modified source will meet an emission limit, to be specified by the Administrator as a condition to approval, which represents that level of emission reduction which would be achieved by the application of best available control technology, as defined in 52.01 (f), for particulate matter and sulfur dioxide. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, he may instead prescribe a design or equipment standard requiring the application of best available control technology. Such standard shall to the degree possible set forth the emission reductions achievable by implementation of such design or equipment, and shall provide for compliance by means which achieve equivalent results.

(iii) With respect to modified sources, the requirements of subparagraph (2) (ii) of this paragraph shall be applicable only to the facility or facilities from which emissions are increased.

(3) In making the determinations required by paragraph (d) (2) of this section, the Administrator shall, as a minimum, require the owner or operator of the source subject to this paragraph to submit: site information, plans, description, specifications, and drawings showing the design of the source; information necessary to determine the impact that the construction or modification will have on sulfur dioxide and particulate matter air quality levels; and any other information necessary to determine that best available control technology will be applied. Upon request of the Administrator, the owner or operator of the source shall provide information on the nature and extent of general commercial, residential, industrial, and other growth which has occurred in the area affected by the source's emissions (such area to be specified by the

Administrator) since January 1, 1975.

(4) (i) Where a new or modified source is located on Federal Lands, such source shall be subject to the procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be in addition to applicable procedures conducted by the Federal Land Manager for administration and protection of the affected Federal Lands. Where feasible, the Administrator will coordinate his review and hearings with the Federal Land Manager to avoid duplicate administrative procedures.

(ii) New or modified sources which are located on Indian Reservations shall be subject to procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be administered by the Administrator in cooperation with the Secretary of the Interior with respect to lands over which the State has not assumed jurisdiction under other laws.

(iii) Whenever any new or modified source is subject to action by a Federal Agency which might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321), review by the Administrator conducted pursuant to this paragraph shall be coordinated with the broad environmental reviews under that Act, to the maximum extent feasible and reasonable.

(5) Where an owner or operator has applied for permission to construct or modify pursuant to this paragraph and the proposed source would be located in an area which has been proposed for redesignation to a more stringent class (or the State, Indian Governing Body, or Federal Land Manager has announced such consideration), approval shall not be granted until the Administrator has acted on the proposed redesignation.

(e) Procedures for public participation

(1) (i) Within 20 days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (e) (1) (ii) of this section shall be the date on which all required information is received by the Administrator.

(ii) Within 30 days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(b) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the locations where the source will be situated as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional land use planning agency; and any State, Federal Land Manager or Indian Governing Body whose lands will be significantly affected by the source's emissions.

(iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (e) (1) (ii), (iv), or (v) of this section by no more than 30 days or such other period as agreed to by the applicant and the Administrator.

(2) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification after June 1, 1975, without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

(3) Approval to construct or modify shall become invalid if construction or expansion is not commenced within 18 months after receipt of such approval or if construction is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified.

(4) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State, and Federal regulations which are part of the applicable State Implementation Plan.

(f) Delegation of authority

(1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to paragraphs (d) and (e), in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the agency designated is not an air pollution control agency, such agency shall consult with the appropriate State and local air pollution control agency prior to making any determination required by paragraph (d) of this section. Similarly, where the agency designated does not have continuing responsibilities for managing land use, such agency shall consult with the appropriate State and local agency which is primarily responsible for managing land use prior to making any determination required by paragraph (d) of this section.

(ii) A copy of the notice pursuant to paragraph (e) (1) (ii) (c) of this section shall be sent to the Administrator through the appropriate regional office.

(3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal land Manager may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to be subject to a designated State or local agency's procedures developed pursuant to paragraphs (d) and (e) of this section.

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be redelegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are located on Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(39 FR 42514, Dec. 5, 1974; 40 FR 2802, Jan. 16, 1975, as amended at 40 FR 24535, June 9, 1975; 40 FR 25005, June 12, 2975; 40 FR 42012, Sept. 10, 1975)